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THE NORTH CAROLINA GEOLOGICAL SURVEY

JOSEPH HYDE PRATT, STATE GEOLOGIST.

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Economic Paper No. 13.

REPORT OF COMMITTEE APPOINTED BY GOVERNOR R. B. GLENN TO INVESTIGATE THE FISHING INDUSTRIES IN NORTH CAROLINA.

COMPILED BY

JOSEPH HYDE PRATT.

RALEIGH:
E. M. UZZELL & CO., STATE PRINTERS AND BINDERS.
1906.

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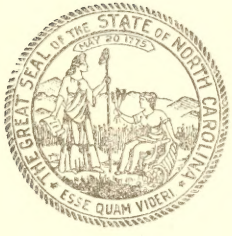

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JOSEPH HYDE PRATT, State Geologist ..... Chapel Hill.

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LETTER OF TRANSMITTAL.

CHAPEL HILL, N. C., November 15, 1906.

To his Excellency, HON. R. B. GLENN,
Governor of North Carolina.

SIR: The commission which you appointed the latter part of August, 1906, to investigate the fishing industries of North Carolina met at Morehead City the third of September and spent the following five days carefully and thoroughly investigating the problems relating to the fin-fish and shell-fish industries, and respectfully submit the following report of their proceedings. In this report it is earnestly urged that the Legislature make provision for a Fish Commission and a Shell-fish Commission. Suggestions are also made for such legislation as will more thoroughly protect and increase the value of our fishing industries.

The recommendations of your committee are most favorably endorsed by the United States Bureau of Fisheries in a letter appended to this report.

As this report will be of special interest to a large proportion of the people in eastern North Carolina, I respectfully recommend that it be published as Economic Paper No. 13 of the North Carolina Geological and Economic Survey.

Yours obediently,

JOSEPH HYDE PRATT,
State Geologist.

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REPORT OF COMMITTEE ON FISHERIES IN NORTH CAROLINA,

APPOINTED BY

GOVERNOR R. B. GLENN, CHAIRMAN OF GEOLOGICAL AND ECONOMIC SURVEY BOARD.

The committee appointed by Governor R. B. Glenn, chairman of the Geological and Economic Survey Board, to investigate the fishing industries of the State, met at Morehead City, N. C., on the evening of September 3, 1906, the following being the *personnel* of this committee: J. B. Coffield, of Everetts; J. J. Laughinghouse, of Greenville; T. H. Shepard, of Edenton; W. A. Saunders, of Wilmington; R. W. Smith, of Manteo; W. E. Swindell, of Washington, N. C.; W. O. Lupton, of Belhaven; M. B. Gowdy, of Beaufort; W. M. Webb, of Morehead City; H. F. Moore, of the U. S. Bureau of Fisheries, Washington, D. C.; and Joseph Hyde Pratt, State Geologist, Chapel Hill.

As will be seen from the above, this committee consisted of practical fishermen and oystermen representing all sections of the eastern part of the State where the fisheries are of economic importance, and also of various branches of these industries; as well as of men versed in the scientific side, who were able to give unbiased opinions on all matters under discussion.

The meeting was called to order by Joseph Hyde Pratt, State Geologist, with the following remarks:

"You are asked by his Excellency, Governor R. B. Glenn, to meet together to discuss questions relating to the present condition of the fishing industries in North Carolina, including not only the fin-fish, but also the oyster, clam, terrapin, and all that can be brought under the general head of the fishing industry of North Carolina; and also to suggest some measures that will bring about a change for an improvement in this industry. The first thing in organizing this committee will be the election of a permanent chairman."

Joseph Hyde Pratt, State Geologist, was elected permanent chairman and R. W. Smith, of Manteo, secretary.

In a few words the chairman stated the object of the committee's appointment and the line of work to be taken up.

At this meeting there was a general discussion of the practicability and feasibility of the appointment of a Fish Commission and the question of raising revenue for the support of such a commission. It was the unanimous opinion of those present at this meeting that it is very important and absolutely essential that a Fish Commission be appointed by the Legislature of North Carolina and given such powers as will enable it to enforce all laws relating to the fishing industries of North Carolina. It was also the unanimous opinion that at least a large proportion of the revenue necessary for the support of the Fish Commission should be raised by a direct tax upon every net that is used for fishing in the waters of North Carolina.

Very appropriate remarks were made upon these questions by Messrs. Moore, Smith, Lupton, and the chairman.

It was decided at this meeting that the sessions of the committee should be held both morning and afternoon, and, if necessary, at night.

The meeting adjourned at 10 P. M. until 9 A. M. on Tuesday.

At the regular sessions of the committee all of the questions taken up were very fully and freely discussed by all the members, and in nearly every instance the recommendations of this committee were unanimous. There were certain instances, however, which in most cases related to local questions, where there was a decided difference of opinion between the various members and where on the deciding vote there were one or two against the recommendation as passed. The committee worked hard and conscientiously to make such recommendations as would insure a decided and lasting improvement in the fishing industries of the State and which would result in a large increase in the value of these industries to the State. Each question, as it was taken up, was, as far as possible, discussed before the committee as a whole; but in some instances it was necessary to refer to a subcommittee the drawing up of the detailed suggestions, such as those relating to the Fish Commission, Shell-fish Commission, etc. The work of the subcommittees was in turn referred back to the committee as a whole and passed upon.

It was decided to recommend the organization of a Fish Commission for North Carolina, and suggestions to be incorporated into a bill relating to the formation of the Fish Commission were drawn up and passed unanimously by the committee. These suggestions and

recommendations are given, together with others passed by this committee, at the end of this report. As the committee have recommended so strongly the formation of a Fish Commission and feel confident that the same will be appointed, it did not attempt to recommend many changes in any of the laws that refer to decided local conditions, except where these were known to be injurious to the general fishing industry.

The existing laws relating to the fish and oyster industries as given in the Revisal of 1905 were taken up and carefully discussed; and recommendations made regarding these are given at the end of this report.

These discussions brought out a nearly unanimous opinion that there is over-fishing of the waters of North Carolina, and, as stated by Mr. Moore of the Bureau of Fisheries, "the trouble in the decrease in the quantity of fish in North Carolina comes not from the predominant evils of any particular apparatus, but from the fact that you have caught too many fish; and if you catch them, whether by seines, gill-nets, or pound-nets, you are going to reduce them below the reproductive power of the fishes, and have a reduction in the fisheries. The question of the propagation of fish is one to which the Bureau has given a great deal of attention. Unfortunately, the United States Government can propagate the fish, but has no way of protecting them. Many of the States have neglected to protect their fish; in other words, they have allowed over-fishing. They have allowed apparatus to be used in places where it ought not to be placed, and our efforts have gone for naught. Unless some fish legislation is carried out in North Carolina, there will very likely be some such state of affairs here. To emphasize the point I make, the question is not so much one of particular apparatus as it is one of general over-fishing, and the aim of this Board should be to cut down the amount of apparatus fished and to restrict at all places the fishing season."

Mr. Moore also further stated, in discussing Section 2435: "The amount of apparatus that is fished in the State is obviously considerably greater than the fisheries of the State can support. You have seen the results in a decrease in the catch from year to year. While there is no particular reason that one locality should be permitted to fish nets and another locality be prohibited, at the same time there must be some restriction. I do not know what general

measures the Board will eventually take, but it should take some means to cut down the amount of apparatus that is used, or at least measures that will prevent a very great extension of apparatus over that in use in the past year. Of course, the waters of North Carolina cover a great area and will support a large fishery, but they will not support a fishery that is subject to indefinite extension. Three thousand pound-nets and I don't know how many gill-nets—some million yards, perhaps—compose a great big amount of apparatus to put down in the waters of this State. Now I think that in the attempt to bring about consistency in various matters here, that should be considered."

Mr. Coffield remarked concerning this section as follows:

"My idea has been, all the while, that the object of the formation of this committee was to suggest some legislation by which the fish might be protected, the catch limited, and the fish interests fostered."

The result of these discussions of the amount of apparatus and the open season for fishing was a unanimous passage of the following resolutions:

"*Resolved*, That it is the sense of this committee that every endeavor should be used to restrict the amount of apparatus in use for fishing in the tidal waters of North Carolina so that it will not exceed the number nor total length in at the time of the canvass of the United States Bureau of Fisheries in 1906.

"*Resolved*, That the open season for shad, herring, sturgeon, and rockfish should be curtailed as far as possible and the laws regulating same be rigidly enforced."

The discussion of Section 2440 of the Revisal of 1905, known as the Vann Bill, was very deliberate, and the questions at issue in this bill were very carefully considered and argued by every member of the committee. Mr. R. W. Smith, of Manteo, Roanoke Island, who represented the people most seriously affected by this bill, argued strenuously for more open ground for fishing than first allowed by the Vann Bill. The points raised were discussed pro and con, and the final decision of the committee, which was passed unanimously, is given in the pages following this report under Section 2440. The changes recommended for this bill are such that the committee believe it will really increase the efficiency of the bill in its protection of the shad and herring, and it does at the same time give a larger area

of fishing ground around Roanoke Island and the west shore of Pamlico Sound to the fishermen of Roanoke Island.

A resolution was also passed that, in the event of the formation of a Fish Commission, the Fish Commissioner be requested to investigate the catching of the "run-down" shad and see if provision can not be made so that these can be returned to the water alive.

A subject that was given most serious consideration and discussed in the minutest detail was the cultivation of the oyster and clam in the waters of North Carolina. The result of the deliberations of the committee on this question was the recommendation of legislation which will throw open for cultivation certain definite areas of sea-bottoms in North Carolina and provide an incontestable title to the holders of the bottoms. These recommendations are given at the end of this report under the head of Cultivation of the Oyster. This question was very ably discussed by Messrs. Moore, Lupton, Gowdy, Webb, and the chairman.

Another point taken up of particular importance, especially in the event that the legislation regarding the cultivation of the oyster and clam is passed, was the modification of the laws relating to the Oyster Commissioner. It was the sense of this committee that there should be formed a Shell-fish Commission at whose head would be the Shell-fish Commissioner, who would have the appointment of a Deputy Commissioner and inspectors; and that the organization of this commission should be along similar lines as that of the Fish Commission. Such recommendations for legislation leading to the formation of the Shell-fish Commission are given at the end of this report and represent amendments to Sections 2398, 2403, 2404, 2405, 2406, 2407, and 2422. These recommendations were passed unanimously by the committee, as were also all the recommendations regarding amendments to the present laws.

The work of the oyster inspectors was discussed, and it was brought out quite clearly that their work was not satisfactory. Under the present conditions there is an inspector at every packing-house, which is a heavy burden upon the oyster fund, and especially when the oysters brought in are not thoroughly inspected and the unculled, according to law, rejected. A remedy has been suggested, as given under Section 2393, which the committee believe will greatly reduce the number of inspectors that will be required to enforce the laws relating to oysters and clams.

The following special resolutions were passed by the committee:

That the State shall exercise exclusive jurisdiction and control over all the shell fisheries of the State, whether these fisheries be for oysters, clams, scallops, or other mollusca.

That the Shell-fish Commissioner shall be given jurisdiction over all the waters of the State as regards oysters, clams, scallops, and other mollusca.

That in case the provisions relating to the cultivation of the oysters presented in this report should fail of passage, no restrictions be proposed in regard to the shipment of shell oysters out of the State.

A motion was made and passed unanimously expressing the appreciation of the committee to Dr. H. F. Moore, of the United States Bureau of Fisheries, for his efficient services, which have been of inestimable value to the committee in their deliberations; and to Dr. R. E. Coker for his interest and assistance in the work of the committee on questions relating to oyster cultivation.

The committee adjourned *sine die*, at noon of Friday, September 9, 1906.

JOSEPH HYDE PRATT,
Chairman.

R. W. SMITH,
Secretary.

RESOLUTIONS ADOPTED BY THE COMMITTEE INVESTIGATING THE FISHING INDUSTRIES OF THE STATE.

FIN-FISH INDUSTRIES.

In taking up the discussion of the fin-fish industries of North Carolina, it was the unanimous opinion of the committee that in order to protect the fishes of North Carolina and to derive the benefit desired from the laws passed relating to the fin-fish, it is essential and necessary that a Fish Commission be organized and appointed by the Legislature which shall have power to enforce the laws and keep in close touch with the various fishing industries and problems throughout the entire year. The committee unanimously recommend the organization of a Fish Commission according to the following:

1. North Carolina Fish Commission. The Fish Commission shall, except as in this act otherwise provided, consist of a single Commissioner. He shall be appointed by the Governor by and with the advice and consent of the Senate within thirty days after the passage of this act. He shall be responsible for the carrying out of the duties of his office to the Geological and Economic Survey Board and shall make semi-annual reports to them. The term of office of such Commissioner and his successors in office shall be four years, or until their successors are appointed and qualified, and in case of vacancy in the office, the appointment shall be to fill the vacancy. The said Commissioner shall appoint a Deputy Commissioner. During the absence or inability to act of the Commissioner, the Deputy Commissioner shall have and exercise all the powers of the Commissioner. The Commissioner and Deputy Commissioner shall each execute and file with the Secretary of State a bond to the people of the State in the sum of seven thousand and five thousand dollars respectively, with sureties to be approved by the Secretary of State, conditioned for the faithful performance of their duties and to account for and pay over pursuant to law all moneys received by them in their office. The Fish Commissioner shall take and subscribe an oath to support the Constitution and for the faithful performance of the duties of his office, which oath shall be filed with the bond. The Deputy Commissioner may be removed for cause by the Commissioner, who may appoint his successor.

Inspectors or deputies. The Fish Commissioner shall appoint inspectors (or deputies) in each county of the affected territory, who will assist him at whatever time he may need their services. The said inspector may be the Sheriff or his deputy in said county and shall serve under the direction of the Commissioner, receiving compensation not to exceed three dollars per day and necessary expenses while in actual service.

Office and clerical force. The Fish Commissioner shall have an office in some town conveniently located to the maritime fisheries, and he is authorized to employ such clerks as may be necessary for the proper carrying on of the work of his office.

Equipment. The Fish Commissioner is authorized by and with the consent of the Geological and Economic Survey Board to purchase or rent such boats, nets, and other equipment as may be necessary to enable him and his deputies to carry out the duties of his office, as specified in this act.

Duties. The Fish Commissioner shall have charge of the enforcement of all acts relating to the fish and fisheries of North Carolina, except those relating to oysters, clams, scallops, and other mollusca; he shall collect and compile statistics showing the annual product of the fisheries of the State otherwise than those specified above; of the capital invested and the apparatus employed; he shall prepare and have on file in his office maps based on the charts of the United States Coast and Geodetic Survey of the largest scale published, showing as closely as may be the location of all fixed apparatus employed during each fishing season; he shall have surveyed and marked in a prominent manner those areas of the waters of the State in which the use of any or all fishing appliances are prohibited by law; he shall be responsible for the collection of all license fees, taxes, fines, or other imposts upon fisheries and shall receive all fines imposed for the infraction of the fishery laws, and shall pay same into the State Treasury to the credit of the Fish Commission fund to be drawn upon as directed by the Geological and Economic Survey Board; he shall carry on investigations relating to the migrations and habits of the fish in the waters of the State, and for this purpose he may employ such scientific assistants as may be authorized by the Geological and Economic Survey Board.

Arrests without warrant, when and how made. The Fish Commissioner, Deputy Commissioner, and inspectors shall have power, with or without warrants, to arrest any person violating any of the fishery laws.

Power to take fish. The Fish Commissioner and the United States Bureau of Fisheries may take and cause to be taken for scientific purposes, or for fish culture, any fish or other marine organisms at any time from the waters of North Carolina, any law to the contrary notwithstanding.

Salaries. The salary of the Fish Commissioner shall be fifteen hundred dollars per year and the expenses necessarily incurred by him in the discharge of his duties; that of the Deputy Commissioner shall be nine hundred dollars per year and the expenses necessarily incurred by him in the discharge of his duties. The salaries of clerks and of scientific assistants which may be employed from time to time are to be fixed by the Geological and Economic Survey Board.

No interest in fisheries. The Fish Commissioner, Deputy Commissioner, and inspectors shall not be interested in any fishing industry in North Carolina.

Revenue. All license fees, taxes, fines, or other imposts upon the fisheries or fines imposed for infraction of the fishery laws in whatever manner collected, shall be paid to the State Treasurer to the credit of the Fish Commission fund to be drawn upon as directed by the Geological and Economic Survey Board, and shall constitute the revenue of the Fish Commission.

DISCUSSION OF PRESENT FISHING LAWS.

The present fishing laws as they stand on the statute-book of the Revisal of 1905 were taken up and each one reviewed carefully by the committee, who report their opinion regarding them in the following resolutions:

That section

2424. **Croatan marshes.** If any person, for the purpose of taking fish, shall between the first day of February and the first day of May, of the same year, use or cause to be used, at or within half a mile of the marshes separating the waters of Croatan and Pamlico sounds, any weir, hedge, net or seine, he shall be guilty of a misdemeanor.

Code, s. 3378; R. C., c. 81, s. 4; 1844, c. 40, s. 3.

remain as it is.

That section

2425. **Masonboro and Myrtle Grove sounds.** If any person shall use any pyke-nets or set down seines, or place any fish-trap for the purpose of catching fish in the waters of Masonboro and Myrtle Grove sounds in New Hanover County, he shall be guilty of a misdemeanor, and fined not more than fifty dollars or imprisoned not more than twenty days.

Code, s. 3421; 1883, c. 288, ss. 1, 2.

remain as it is.

That section

2427. **Lay days for Pamlico River.** If any person, from the fifteenth day of February to the tenth day of May of every year, from twelve o'clock meridian of Saturday until sunrise Monday morning of each week, shall fish any seine, set-net, drift-net, or any other net of any name or kind whatever, in the waters of Pamlico or Tar rivers and tributaries, except bow or skim nets, he shall be guilty of a misdemeanor.

Code, s. 3416; 1883, c. 137, s. 3.

be repealed, only two of the committee being opposed to this. Under new legislation, a general law is suggested prohibiting the hauling, raising, shooting of any nets from twelve o'clock midnight of Saturday until twelve o'clock midnight Sunday.

That section

2428. **Fishing dutch-nets in Pamlico and Tar rivers.** If any person shall set down or fish any dutch, pod, pyke, or pound net, or net of like kind, in the waters of Pamlico or Tar rivers or their tributaries, except in the manner, and in the part, and during the time, which such nets are by law allowed to be fished, he shall be guilty of a misdemeanor, and shall be fined not less than fifty dollars nor more than one hundred dollars, and shall be imprisoned in the county jail not less than thirty and not more than sixty days.

Code, s. 3417; 1903, c. 52.

remain as it is.

That section

2429. **Dutch-nets in Pamlico River.** It shall be lawful to fish with dutch, pod, pyke, or other pound nets, or nets of like kind, in the waters of Pamlico River below a line beginning on the southern shore of Pamlico River at Maule's Point, and running due north to a point on the northern shore of said river: *Provided*, that no dutch, pod, pyke, or pound net, or other net of like kind, shall extend out in said river more than one-eighth of the distance across said river from the shore, and that none of said dutch, pod, pyke, or pound nets shall be set, placed down, or fished nearer to each other than five hundred yards, measuring up and down the river; nor shall they be placed, set down, or fished within five hundred yards of any seine-beach in actual use for hauling a seine, nor within one mile of the mouth of Bath Creek: *Provided*, no nets of the kind

enumerated in this section, or other nets of like kind, shall be placed down, set, or fished in said rivers between the tenth day of May and the first day of July in any year. Whenever any person shall complain to the Oyster Commissioner or any inspector that dutch, pod, or pyke nets, or other nets of like kind, have been placed down or set in any of the waters of Pamlico River, or in any of its tributaries, contrary to and in violation of this section, said Oyster Commissioner or inspector, or person performing the duties of such, shall at once visit said river, make a complete and full examination of all dutch, pod, or pyke nets, or other nets of like kinds, in said river, and ascertain whether they are placed down, set, or fished in violation of the provisions of this section, and he shall report to the Solicitor of the district in which the offense is committed.

Code, s. 3417; 1903, c. 52.

remain as it is, with the exception that the words "Oyster Commissioner" shall be changed to "Fish Commissioner," provided the Fish Commission act creating the Fish Commissioner is passed by the Legislature; and that "tenth day of May" shall read "first day of May."

That section

2430. Dutch-nets in Currituck Sound. If any firm, company, or corporation shall operate or cause to be operated in the waters of Currituck County, or be interested in (in any manner whatsoever) more than six pound or dutch nets, or use more than one hundred yards of hedging to a net, or set a stand of such nets exceeding eight hundred yards in length from land to the extreme outward end; or if any person shall set any pound or dutch nets to the east of the center of Currituck Sound, except that part from the west point of Mackey's Island north of the Virginia line; or if any person shall leave any landing or anchorage before sunrise for the purpose of fishing in Currituck Sound or tributaries, or shall continue to fish after dark, he shall be guilty of a misdemeanor and be fined not less than twenty-five nor more than fifty dollars. This section shall not prohibit fishing after dark in that part of said sound west of a line beginning at the north point of Bell's Island, thence north not more than one thousand yards from the mainland to the mouth or entrance of Tull's Creek, nor night fishing between the thirty-first day of March and the twentieth day of October five hundred yards from the shore from Martin's Point to Kitty's Hawk Bay.

1905, c. 273, ss. 3-7.

remain as it is.

That section

2431. Shipping or selling fish, Currituck County. If any person shall catch or capture any fish with nets or other appliances in the waters of Currituck County between the thirty-first day of March and the twentieth day of October of each year, or shall sell or ship out of the county or State any fresh fish between said dates; or if any person shall be found with more than twenty-five pounds of fresh-water fish in his possession between the thirty-first day of March and the twentieth day of October of each year—herrings, mullets, shad,

and eels excepted; or if any person shall in said county catch eels for market between the thirtieth day of April and the twentieth day of October following in each year, he shall be guilty of a misdemeanor and be fined not more than fifty dollars and not less than twenty-five dollars. Any citizen may catch not to exceed twenty-five pounds at any time for home consumption, and sell or give not more than ten pounds to any one person in one day.

1905, c. 273, s. 1.

remain as it is.

That section

2432. **Game warden's right to search vessels.** If any constable, game warden or justice of the peace of Currituck County shall be informed, or have cause to suspect, that either of the two preceding sections are being violated, he is hereby authorized and empowered to examine the contents of any fishing-boat, or packages in transit, and any person or common carrier refusing to exhibit the contents of any fishing-boat or package to such officer shall be guilty of a misdemeanor, and shall be fined not less than twenty-five and not more than fifty dollars.

1905, c. 273, ss. 2, 7.

remain as it is.

That section

2433. **Direction of nets in Pamlico Sound.** Every net (unless the same be a drag-net and hauled to the shore) which may be used for catching shad in that portion of the waters of Pamlico Sound lying between a line drawn eastwardly from Stumpy Point and Mount Pleasant in Hyde County to a point ten miles south of Hatteras Inlet in said sound, shall be set and fixed in said waters, in a direction from north to south, and shall not be used in any other manner; and any person offending against this section shall, for every offense, forfeit five dollars.

Code, s. 3381; 1889, c. 261; R. C., c. 81, s. 7; 1844, c. 40, s. 6.

be repealed.

That section

2434. **In Carteret County.** If any person shall catch mullets in the waters of Carteret County with a seine or net having a mesh of less than one and one-eighth inch; or if any person shall in the waters of Carteret County, except in Neuse River, use for the purpose of catching fish, except menhaden or fatbacks, any seine or net more than two hundred and seventy-five yards long; or shall join two or more nets together in said county so that the length thereof shall be more than two hundred and twenty-five yards, he shall be guilty of a misdemeanor and fined not more than fifty dollars or imprisoned not more than thirty days. And any person using a net exceeding the length allowed by this section

shall forfeit said net, one-half thereof to go to the informer, the other half to the school fund.

1895, c. 25; 1903, c. 508.

be amended so that the clause "and fined not more more than fifty dollars and imprisoned not more than thirty days" shall read "and fined not less than fifty dollars nor more than one hundred dollars, or imprisoned not less than thirty nor more than sixty days"; and that "school fund" shall read "Fish Commission fund."

That section

2435. **Dutch-nets in Carteret County.** If any person shall use or cause to be used any dutch-net, pound-net, or other stationary trap, net, or seine of similar description, by whatever name known, in the waters of Carteret County for the purpose of taking fish therefrom, he shall for each day's use thereof forfeit and pay the sum of fifty dollars. The penalties herein created shall be recovered by a warrant before any justice of the peace in the county of Carteret, and shall be applied to the use of the public schools of said county; and such offender, in addition to the penalties contained in this section, shall be guilty of a misdemeanor and fined not less than one hundred dollars nor more than five hundred dollars, or imprisoned in the county jail not less than six months nor more than twelve months: *Provided*, this section shall not apply to the ordinary set-nets heretofore in use in the waters of said county.

Code, s. 3420; 1883, c. 199.

be amended so as to read, "If any person shall use or cause to be used any dutch-net, pound-net, or other stationary trap, net, or seine of similar description, by whatever name known, in the waters of Carteret County for the purpose of taking fish therefrom, he shall for each day's use thereof forfeit and pay the sum of fifty dollars, excepting from Point of Marsh on south side of Neuse River and running westwardly to Adam's Creek and extending out to a distance of one thousand yards from the shore: *Provided*, that in no case shall the distance the nets extend out into the water be greater than one-eighth of the width of the river: *Provided further*, that the nets shall be one-half mile apart. The penalties herein created * * *" to read the same as original section, except that "applied to the use of the public school fund of said county" shall be changed to read, "applied to Fish Commission fund."

That section

2436. **Obstructions in Carteret County.** If any person shall obstruct any navigable water or passageway for fish in Carteret County by placing bushes, posts, or any stationary material or fixtures in such a manner as to prevent the free passage of fish, he shall be guilty of a misdemeanor and fined not less than one hundred dollars. Nothing in this section shall be construed to prohibit any

person from using a lawful net or seine in any way or manner except as a stop-net or seine. This section shall not apply to any net that the fish can pass freely by one end.

1903, c. 520.

remain as it is.

That section

2437. **Mullets in Carteret.** If any person shall fish for or catch any mullets with any purse-seine or purse-net in any waters within the limits of Carteret County, extending to the extreme limits of the State's jurisdiction in and over such waters, he shall be guilty of a misdemeanor and be fined not less than five hundred dollars or imprisoned not less than one year. For the purposes of this section the following boundaries are hereby declared to be the boundaries to which the waters of said county extend, to-wit: A distance of three nautical miles, measured from the outer beach or shores of Carteret County, out and into the waters of the Atlantic Ocean; and any portions of any water within a distance of three miles from said waters of the Atlantic Ocean to any beach or shore of said county shall be deemed the waters of said county for the purposes of this section.

1903, c. 583; 1905, cc. 274, 508.

remain as it is.

That section

2438. **Menhaden fishing.** If any person shall catch any menhaden or fatbacks within the waters of the State of North Carolina, to the extreme limits of the State's jurisdiction in and over such waters in any purse-net or purse-seine with a bar of less than one inch and with a mesh of less than two inches, or shall knowingly cook or manufacture for fertilizer any menhaden or fatbacks caught in any net or seine having bars of less than one inch or having meshes of less than two inches, at any place within the State of North Carolina, he shall be guilty of a misdemeanor, and for each and every offense shall be fined not less than five hundred dollars or imprisoned for one year, or both, in the discretion of the Court. For the purposes of this section the following boundaries are hereby declared to be the boundaries to which the waters of the said State extend, to-wit: A distance of three nautical miles, measured from the outer beach or shores of the State of North Carolina, out and into the waters of the Atlantic Ocean; and any portions of any water within a distance of three miles from said waters of the Atlantic Ocean to any beach or shore of said State shall be deemed within the waters of said State for the purposes of this section. This section shall not apply to the counties of Dare, Brunswick, Pender, and New Hanover. Every person found fishing for menhaden or fatbacks within three miles of the shore of any county, except the counties of Brunswick, New Hanover, and Pender, shall be presumed to have violated this section. And all such persons, firms, or corporations shall be subject to all the pains and penalties denounced in this section, and they may be prosecuted in the courts of any

county in this State. All persons aiding and abetting shall be guilty as principals.

1905, cc. 274, 508.

remain as it is.

That section

2439. **Dutch-nets in Albemarle Sound and its tributaries.** No person shall set or fish any dutch-net or pound-net in Roanoke River, Cashie or Middle and Eastmost rivers, or within two miles of the mouth of said rivers, or within one mile of the mouth of any other river emptying into Albemarle Sound, of less than two miles in width at its mouth, and any such net set within one mile of the mouth of any other river emptying into said sound shall not extend into the main channel at its mouth. No person shall set or fish with a dutch-net or pod-net within half a mile to the eastward or westward of the outside windlasses or snatch-blocks of any seine-fishery in operation on said sound: and any such net set or fished within one mile of such windlasses or snatch-blocks of any seine-fishery in operation shall run in a due north and south course from the shore, and shall not extend further into the sound from the water's edge than the distance from such windlass or snatch-blocks to the line of such net; and all persons who shall set or fish any such net in said sound shall pull up and remove the stakes used for the same by the first day of June next succeeding the fishing season, and if any person shall set or fish any dutch-net or pod-net in said sound in violation of this section, he shall be guilty of a misdemeanor, and be subject to a penalty of three hundred dollars, to be recovered by any person in the Superior Court of the county in which the offense shall be committed. And the Sheriff of such county shall, when requested, remove any portion of such nets set or fished in violation of this section at the cost of the violator: *Provided*, that dutch-nets may be used in Cashie River two and one-half miles from its mouth, if they do not extend more than one-third the width of said river from the shore, and such nets may be along the sound shore on the Bertie County side between the following points along said shore, to-wit: commencing at the mouth of Cherry Tree Cut branch, Kentrock field and Landing field, and running around the shore to the mouth of Morgan swamp, thence to Rock Spring branch, and that any nets set or fished within that line shall not extend from the shore in any direction a greater distance than four hundred and fifty yards measured at high water, and within this distance of four hundred and fifty yards is to be included the nets, hedges and all parts thereof.

Code, s. 3383; 1889, c. 122; 1891, c. 322; 1895, c. 245; 1899, c. 310; 1899, c. 412.

be amended as follows: In line 13, "in a due north and south course" change to read "at right-angles to the shore"; in line 17, "remove the stakes used for the same by the first day of June next succeeding the fishing season" to read "remove all broken, decayed, and abandoned stakes by the first day of May of each year"; and further in lines 21 to 25, beginning "to be recovered" and ending "of the violator," shall be omitted if the Fish Commission act is passed.

ERRATA.

On page 21, in last paragraph, reference to lines 13, 17, 21 and 25 should read lines 11, 15, 18 and 21 respectively.

That section

2440. **Dutch-nets in Pamlico and Albemarle sounds.** If any person shall set or fish any net, seine, or appliance of any kind for catching fish at any place within a radius of two and one-half miles either way from Roanoke Marshes lighthouse at a distance more than five hundred yards from the shore of Roanoke Island or the mainland on the western side of Croatan and Pamlico sounds; or shall set or fish any pound or dutch net on the eastern side of Pamlico Sound within ten miles of the Roanoke Marshes lighthouse, except such as shall be fished within five hundred yards of the Roanoke Island or Hog Island shores; or shall set or fish any dutch or pound net on the eastern side of Pamlico Sound more than two thousand yards west of a line running south-southeast from Big Island to Bulkhead or shoal west of Chicamacomico or south of said point more than two thousand yards from the shoals as marked on the United States Government chart made from data obtained to November twenty-second, one thousand nine hundred and four; or shall set or fish any dutch or pound net on the west side of Pamlico Sound in said sound extending into the water more than two thousand yards from the shore of the mainland; or shall set or fish any pound or dutch net in Croatan Sound further from the shore than one-fifth the width of said sound at that point; or shall set or fish any pound or dutch net in the Albemarle Sound more than two thousand yards from the shore of the mainland, or in Chowan River further from shore than one-third the width of said river at place where said nets are fished or set, or within one-fourth mile of any wharf used by a steamer on said river; or shall set or fish any net or appliance of any kind for catching fish within one mile on north or south side of a line five miles long running west from center of New Inlet or Oregon Inlet, or on north or south side of a line five miles long running northwest from center of Hatteras Inlet, he shall be guilty of a misdemeanor and be fined or imprisoned, in the discretion of the Court. The provisions of this section shall apply only to that part of each year beginning January fifteenth and ending May fifteenth. The place of trial for offenses under this section shall be the county opposite where the act was committed. It shall be the duty of the Oyster Commissioner or Assistant Oyster Commissioner, whenever an affidavit is delivered to him stating that the affiant is informed and believes that this section is being violated at any particular place, to go himself or send a deputy to such place, investigate same, and he shall seize and remove all nets or other appliances setting or being used in violation of this section, sell same at public auction and apply proceeds of sale to payment of cost and expenses of such removal, and pay any balance remaining to the school fund of county nearest to where offense is committed.

1905, c. 292.

be amended so as to read as follows:

Dutch and other nets in Pamlico and Albemarle sounds and contiguous waters. If any person shall set or fish any net, seine or appliance of any kind for catching fish at any place within a radius of two and one-half miles either way from Roanoke Marshes lighthouse at a distance more than five hundred yards from the shore of Roanoke Island or the mainland on the western side of Croatan and Pamlico sounds, *except that on the western side of Pamlico and Croatan*

sounds fishing shall be permitted in that territory extending one thousand yards from the shore beginning at the two and one-half mile limit heretofore defined and extending to the southern end of the Roanoke Marshes on the Pamlico Sound side and to the north end of the same marshes on the Croatan side, but in neither case shall the nets within this one-thousand-yard limit be within one and one-quarter miles in any direction from the Roanoke marshes lighthouse; or shall set or fish any pound or dutch net on the eastern side of Pamlico Sound within ten miles of the Roanoke Marshes lighthouse, except such as shall be fished within *one thousand* yards of the Roanoke Island or Hog Island shores; or shall set or fish any dutch or pound net on the eastern side of Pamlico Sound more than two thousand yards west of a line running south-southeast (*magnetic*) from Big Island *to a point on the twelve-foot curve westerly* of Chicamacomico, or south of said point more than two thousand yards from *the twelve-foot curve* as marked on the *chart of the Coast and Geodetic Survey corrected* from data obtained to November 22, 1904; or shall set or fish any dutch or pound net on the west side of Pamlico Sound in said sound extending into the water more than two thousand yards from the shore of the mainland; or shall set or fish any pound or dutch net in Croatan Sound further from the shore than one-fifth of the width of said sound at that point; or shall set or fish any net, seine, or appliance of any kind for catching fish at any place within the area of one-fifth the width of the sound or river on either side of a line passing through *the middle* of Croatan and Albemarle sounds up Chowan River and other tributaries of Albemarle Sound; or shall set or fish any pound or dutch net in the Albemarle Sound more than two thousand yards from the shore of the mainland or in Chowan River further from the shore than one-fourth of the width of said river at the place where said nets are fished or set or within one-fourth mile of any wharf used by a steamer on said river; or shall set or fish any net or appliance of any kind for catching fish within one mile on either side of a line running *westerly or southwesterly from the center of New Inlet to an intersection with the line extending from Big Island southeast (magnetic) or within one mile on either side of a line running westerly or southwesterly from the center of Oregon Inlet to a point two thousand yards west of the continuation of the said line running from Big Island south-southeast (magnetic) or within one mile on either side of a line six miles long*

running from the center of Hatteras Inlet through and beyond Hatteras Inlet lighthouse, these restricted areas to include the channels extending from Oregon, New, and Hatteras inlets respectively, he shall be guilty of a misdemeanor and be fined not less than fifty (50) dollars or imprisoned not less than thirty days, in the discretion of the Court. The provisions of this section shall apply only to that part of each year in which *shad and herring fishing are permitted by law in the several waters.* The place of trial for offenses under this section shall be the county opposite where the act was committed.

That section

2441. **Perquimans River.** If any person shall fish with any seine, or set any dutch-net or hedge within one mile of a straight line commencing at Stephenson's Point on the north side of Perquimans River and running in a southwesterly direction to the nearest point of land on the south side of said river known as Belgrade Bluff, or shall haul any seine or set any dutch-net or other kind of net so as to extend beyond the middle of said river at any point thereof, he shall be guilty of a misdemeanor.

1893, c. 147, ss. 1, 2, 4.

remain as it is.

That section

2442. **Pasquotank County.** If any person shall set any pyke or pound net in Pasquotank River above the town of Elizabeth City, or shall haul or fish with a drag-net, or set a pound-net in Big Hatley Creek, or Little Hatley Creek, within two hundred yards of the mouth of either of said creeks, he shall be guilty of a misdemeanor and be fined not exceeding fifty dollars or imprisoned not exceeding thirty days.

1895, c. 389; 1903, c. 497.

remain as it is.

That section

2443. **Obstructions in Little River.** If any person shall place any obstruction in Little River, dividing the counties of Pasquotank and Perquimans, and allow it to remain for a longer time than ten days, he shall be guilty of a misdemeanor, and fined not less than five dollars nor more than ten dollars: *Provided*, nothing in this section shall be so construed as to prohibit citizens from fishing with dip nets in said river during the months of March and April in each year.

Code, s. 3400; 1881, c. 18.

remain as it is.

That section

2444. **Fish offal not thrown in navigable waters.** If any person shall throw, or cause to be thrown, into the channel of any of the navigable waters of the

State, any fish offal, in any quantity that shall be likely to hinder or prevent the passage of fish along such channel, or if any person shall throw or cause to be thrown into the waters known as the Frying Pan, tributary to the Great Alligator River in Tyrrell County, any fish offal in any quantities whatsoever, he shall be guilty of a misdemeanor.

Code, ss. 3386, 3389, 3407.

remain as it is.

That section

2445. **Scuppernong River.** If any person shall set any kind of a fish weir or pod-net, gill-net, or net of any kind in the Scuppernong River using more than one-half of the channel of said river, or within one hundred yards of the public bridges at Columbia and the Cross landing, crossing said river, he shall be guilty of a misdemeanor, and fined a sum not to exceed fifty dollars, or imprisoned not to exceed thirty days: *Provided*, this section shall not apply to the hauling of seines.

Code, s. 3408; 1885, c. 18; 1903, c. 91.

remain as it is.

That section

2446. **Drift-nets in the sounds.** If any person shall drift or fish any drift-nets between the first day of February and the first day of May of any year, within two miles of the mouth of any river emptying into Albemarle Sound, or within three miles of any seine-beach on the Albemarle or Croatan sounds while being fished, or within ten miles of Ocracoke, Hatteras, Oregon, or New inlets, or within ten miles of the Roanoke Marshes, he shall be guilty of a misdemeanor, and be fined not less than fifty dollars or imprisoned not less than thirty days: *Provided*, the people of Dare County shall be allowed to use drift-nets for herring.

Code, s. 3396; 1881, c. 274, ss. 1, 2; 1883, c. 145.

remain as it is.

That section

2447. **Frying Pan Creek, Tyrrell County.** If any person shall fish any pound-net, gill-net, seine, or nets of any kind in Alligator River within one mile of the mouth of Frying Pan Creek in Tyrrell County, or shall set any weir or fish net of any kind or any other obstruction that prevents the passage of fish in said creek from its mouth to Jarmin's Point, at the two pines and low cypress, he shall be guilty of a misdemeanor.

1889, c. 105; 1899, c. 465.

remain as it is.

That section

2448. **Net stakes removed from certain waters.** Every person who shall set or use any net in the waters of Pamlico, Croatan, Currituck, or Albemarle sounds, or their tributaries, except Perquimans River, shall be required to pull

up and remove their net-stakes within thirty days from the day the nets were taken from them, and not later than the first day of June, and any person failing to pull up and remove their stakes, as required by this section, shall be guilty of a misdemeanor, and fined not more than fifty dollars or imprisoned not more than thirty days.

Code, ss. 3382, 3414; 1883, c. 69; R. C., c. 81, s. 8; 1844, c. 40, s. 7; 1852, c. 13; 1893, c. 147.

be amended as follows: "and remove their net-stakes within thirty days from the day the nets were taken from them, and not later than the first day of June," to read "and remove all broken, decayed, and abandoned stakes by the first day of May of each year."

That section

2449. **Fishing in Frying Pan, Tyrrell County.** If any person shall set any pound-net or dutch-net in Alligator River within one-half mile of the mouth of Frying Pan Creek in Tyrrell County, or in Frying Pan Creek within three miles of where it enters into Alligator River, he shall be guilty of a misdemeanor and shall be fined fifty dollars or imprisoned thirty days, or both, at the discretion of the Court.

1905, c. 282.

remain as it is.

That section

2450. **Dutch-nets at the inlets.** If any person shall set any pound-net, dutch-net, or hedge-net within two miles of Oregon Inlet or Hatteras Inlet or within ten miles of New Inlet in Dare County, North Carolina, or shall between the first day of January and the first day of May following of any year, set or operate any seine or stationary nets of any kind in the main channels within three miles of the inside mouths of Ocracoke, Hatteras, Oregon, or any other inlet north of Ocracoke Inlet, connecting the waters of the Atlantic Ocean with any of the sounds or other inland waters of North Carolina, or shall fish with seines or nets of any description in the waters of Bear Inlet or Brown's Inlet or within one mile of Bear Inlet or Brown's Inlet, on the eastern or western beach of said inlets, except at regularly established fisheries on said Bear or Brown's Inlet beaches, or shall fish with seines or nets on the inside of said Bear or Brown's Inlet within one-fourth mile of said inlets between the first day of October and the first day of April, he shall be guilty of a misdemeanor.

1893, c. 216; 1903, c. 724; 1903, c. 416.

be amended so that the reference to New Inlet, Hatteras Inlet, and Oregon Inlet be omitted to conform with the revision of Section 2440.

That section

2451. **Anchor-nets in Albemarle Sound.** If any person shall set or fish an anchor, drift, or staked gill-net in the waters of Albemarle Sound or its tributaries west of a line running from Skinner's Point buoy to Roanoke lighthouse, or if any person shall, east of said line, set or fish in the waters of said sound

or its tributaries any anchor, drift, or staked gill-net longer than one thousand yards, or combination of such nets longer than one thousand yards; or shall set or fish any anchor, drift, or staked gill-nets within one and one-half miles of any seine-grounds on the said sound or rivers emptying therein or within one-half mile of any dutch-net stand where the same is now located in said sound or rivers, unless said seine-ground or dutch-net stand is owned by the person setting such nets; or shall set or fish any line or row of anchor, drift, or staked gill-nets anywhere in said sound or rivers nearer to any other row of such nets than half the length of the longer of said row, he shall be guilty of a misdemeanor, and shall be fined not exceeding one hundred dollars or be imprisoned not more than thirty days. And any person who shall wilfully violate the provisions of this section shall forfeit and pay for each violation of the same the sum of one hundred dollars, to be recovered in a civil action by any one who will sue therefor; one-half of said recovery shall inure to the benefit of the public school fund.

1897, c. 51; 1899, c. 41; 1899, c. 130.

remain as it is.

That section

2452. **Pamlico County.** If any person shall set or fish any dutch or pound nets in the waters of Pamlico County, or shall use any seine or drag-net in the waters of said county, including the north side of Neuse River from the mouth of the river to the mouth of upper Broad Creek, from the first day of May to the first day of January next ensuing, or shall at any time catch fish with a seine or drag-net along the shores of said county on any day of the week except Monday, Wednesday, and Friday, he shall be guilty of a misdemeanor, and be fined not more than fifty dollars or imprisoned not more than thirty days.

1885, c. 198; 1889, c. 544; 1893, c. 334.

be repealed.

That section

2453. **Dutch-nets in Neuse River.** If any person shall use or cause to be used any dutch-net, pound-net, or other stationary trap-net, or seine of similar description, by whatever name known, in the waters of Neuse River for the purpose of taking fish therefrom, except the ordinary set-net in use in said river, prior to the first day of January, one thousand eight hundred and ninety-seven, he shall for each day's use thereof as aforesaid forfeit and pay the sum of fifty dollars. The penalties herein created shall be recovered by warrant before any justice of the peace in the county of Carteret, Craven, and Pamlico or Lenoir, and shall be applied to the use of the public schools of said counties, and such offender in addition to the penalties contained in this section shall be guilty of a misdemeanor and shall be fined not less than one hundred dollars, nor more than five hundred dollars, or imprisoned in the county jail not less than six months nor more than twelve months: *Provided*, that a resident and citizen of the State may fish with dutch, trap, or pound nets in the waters of Neuse River on the Pamlico side of said river between the mouth of said river and Upper Broad Creek not more than five hundred yards from the shore.

Code, s. 3397; 1897, c. 145; 1899, c. 299; 1899, c. 422; 1899, c. 435; 1901, c. 74; 1903, c. 704; 1905, c. 817.

remain as it is, except that fine shall be paid to Fish Commission fund.

That section

2454. **Size of meshes for seines in Neuse and Trent rivers.** If any person shall use any drag-net or seine with bars of less size than one and a quarter inches in the Neuse and Trent rivers, or in any of the tributaries thereof, except for the purpose of catching herring, from the fifteenth day of January to the fifteenth day of May of each year, he shall be guilty of a misdemeanor, and fined not less than five nor more than fifty dollars for every offense. This section shall not apply to the waters of the Neuse and its tributaries above the Wayne and Johnston county lines.

Code, s. 3395; 1881, c. 146, ss. 1, 2.

remain as it is.

That section

2455. **Fishing in Trent River.** If any person shall set any trap, dutch, pound, or pod net of any description whatever in Trent River, or shall at any time extend his set-nets more than one-third the distance across the Trent River from either side, or shall set any net nearer to any other net than one hundred yards either on the same or on the opposite side of the river, or shall fish with seines or set-nets of any description in Trent River from its mouth to upper Tucker bridge, between the hours of twelve o'clock noon on Saturday and twelve o'clock noon on Monday of each week, or shall set or haul a net or seine of any description between the town of Trenton and Brown's mill on said river from the sixteenth day of May to the first day of August in each year, he shall be guilty of a misdemeanor, and shall be fined not less than five dollars nor more than ten dollars, or be imprisoned not less than ten nor more than thirty days.

Code, s. 3397; 1893, c. 447; 1897, c. 294.

be amended so that in next to the last line "not less than five dollars nor more than ten dollars" shall read "not less than fifty dollars nor more than one hundred dollars."

That section

2456. **Fishing or shooting on bridges across Neuse or Trent River at New Bern.** If any person being upon the bridges or either of them which span the Neuse and Trent rivers at the city of New Bern, shall fish in the waters of said rivers while being on said bridges, except with hand-line not attached to any pole, or shall use fire or shoot any firearms while standing or being upon either of said bridges, he shall be guilty of a misdemeanor, and be fined not exceeding fifty dollars or imprisoned not exceeding thirty days.

1901, c. 36; 1901, c. 326; 1903, c. 71.

remain as it is.

That section

2457. **Setting nets across streams.** If any person shall set a net of any description across the main channel of any river or creek, or shall erect, so as to extend more than three-fourths of the distance, across any such river or creek

any stand, dam, weir, hedge, or other obstruction to the passage of fish, or shall erect any stand, dam, weir, or hedge in any part of any river or creek that may be left open for the passage of fish, or who, having erected any dam where the same was allowed, and shall not make and keep open such slope or fishway as may be required by law to be kept open for the free passage of fish, he shall be guilty of a misdemeanor.

Code, ss. 3387, 3388, 3389.

remain as it is.

That section

2458. Hauling seines, Cherokee County. If any person shall fish with seines or drag-nets or place any finger or fall traps in the Valley River, Notla and Hiawassee rivers in the county of Cherokee, for the purpose of catching fish from said rivers, from the fifteenth of March to the first day of June in each year, he shall be guilty of a misdemeanor, and fined not less than ten nor more than fifty dollars, or imprisoned not less than ten nor more than thirty days.

Code, s. 3399; 1881, c. 12; 1897, c. 293.

remain as it is.

That section

2459. License tax on non-residents fishing with seines. If any person, not being a citizen and resident of this State, shall catch fish by seines, nets, or other appliances for taking fish for marketable purposes in any waters within the jurisdiction of this State, without first obtaining therefor a license from the State Treasurer and for which he shall pay a privilege tax of twenty-five hundred dollars per annum, he shall be guilty of a misdemeanor, and upon conviction in the Superior Court of any county contiguous to the waters so fished as aforesaid, shall be fined not exceeding three thousand dollars or imprisoned not exceeding two years, or be both fined and imprisoned, as aforesaid, in the discretion of the Court; and any citizen of this State, or other person who shall form an alliance or copartnership with a non-resident for the purpose of evading this section or who shall act as an agent of any such non-resident, or as his servant, agent, or employee, shall be deemed guilty of a misdemeanor, and upon conviction in the Superior Court of any county bordering upon the waters fished as aforesaid, shall be fined not less than one hundred dollars or imprisoned not less than six months, or both, in the discretion of the Court; and the nets, seines, boats, or other appliances of such person shall be liable by civil action to seizure and confiscation for the benefit of the public school fund. Any person who shall violate this section shall forfeit and pay the sum of five hundred dollars for each day engaged in fishing as aforesaid, to be sued for and recovered by any citizen of this State, the one-half of such recovery to be to the use of such citizen so suing and recovering the same, and the other half to the school fund. In any civil action for the recovery of the penalties hereinbefore provided for and mentioned, no person, agent, servant, or other employee shall be excused from testifying therein on the ground of incriminating himself by his answer, but such

answer shall not be used as evidence against such witness so testifying in any criminal action whatsoever.

Code, s. 2202; 1897, c. 35; 1899, c. 52.

remain as it is, except that "public school fund" be changed to read "Fish Commission fund."

That section

2460. **Right to fisheries.** Whenever any person shall acquire title to lands covered by navigable water under the chapter entitled Grants, the owner or person so acquiring title shall have the right to establish fisheries upon said lands; and whenever the owners of such lands shall improve the same by clearing off and cutting therefrom logs, roots, stumps, or other obstructions, so that the said land may be used for the purpose of drawing or hauling nets or seines thereon for the purpose of taking or catching fish, then and in that case the person who makes or causes to be made the said improvements, his heirs and assigns, shall have prior right to the use of the land so improved, in drawing, hauling, drifting, or setting nets or seines thereon, and it shall be unlawful for any person, without the consent of such owner, to draw or haul nets or seines upon the land so improved by the owner thereof for the purpose of drawing or hauling nets or seines thereon; and this section shall apply where the owner of such lands shall erect platforms or structures of any kind thereon to be used in fishing with nets and seines; and every person who shall wilfully destroy or injure the said platform or structures, or shall interfere with or molest the owner in the use of such lands as aforesaid, or in any other manner shall violate this section, shall be guilty of a misdemeanor: *Provided*, this section shall not be so construed as to relieve any person from punishment for the obstruction of navigation.

Code, s. 3384; 1874-5, c. 183, ss. 1-6.

remain as it is.

That section

2461. **Obstruction of fish in Hiawassee River.** No person shall make, construct, or build any dam, drag-net, or seine across more than three-fourths of Hiawassee River, so as to prevent or hinder the free passage of fish in said river, and any person making or using any dam, drag-net, or seine in said river shall leave open and unobstructed to the free passage of fish at least one-fourth of said river, in width, on the side most favorable to the passage of fish. Any person offending against this section shall be guilty of a misdemeanor, and fined not more than ten dollars for each twenty-four hours said river is so obstructed, one-half to the use of the school fund, the other to the use of the county in which such violation occurs.

Code, s. 3398; 1881, c. 11, ss. 1, 2, 3.

remain as it is.

That section

2462. **Regulated in certain streams.** No person shall place or allow to remain any dam for mill or factory purposes in the Chowan River between Holli-

day's Island and the Virginia line; in the Meherrin River between its mouth and the Virginia line; in the Roanoke River from the mouth of the Cashie River to the Virginia line; in the Dan River from the crossing of the State line to a point nearest Danbury; in the Neuse River from New Bern to Neuse station in Wake County; in Contentnea Creek from its junction with the Neuse to the junction of Turkey and Moccasin creeks; in the Cape Fear River from Wilmington to the junction of Haw and Deep rivers, and thence in Haw River to the line of Chatham and Alamance counties, and also in Deep River to the Randolph and Chatham line; in Rocky River from its mouth to the crossing of the Pittsboro and Ashboro road; in the New Hope River from its mouth to the Orange County line; in Northeast Cape Fear River from Wilmington to South Washington; in Black River from its mouth to the junction of the Coharie; in the South River from its junction with the Black River to the crossings of the Fayetteville and Warsaw public road; in Lumber River from the State line to the northern boundary of Robeson County; in the Yadkin River from the State line to Patterson's factory; in Elk Creek, a tributary of the Yadkin River, from its mouth to Daniel Wheeler's in Watauga County; in Stony Fork Creek, a tributary of the Yadkin River, from its mouth to John Jones' old store; in Ararat River from its mouth to the bridge at Mount Airy; in Linville River from its mouth to Linville Falls; in North Fork of Catawba from its mouth to Turkey Cove; in Broad River from the State line to Reedy Patch Creek; in Greene River from its mouth to its junction with North Pacolet; in the Tennessee River from the State line to its junction with the Nantahala; in Pigeon River from the State line to the Forks of Pigeon; in the French Broad River from the State line to Brevard, and in the Swannanoa River; in Toe River from the State line to the confluence of the North and South Forks of Toe; in New River from the State line to the point of divergence from the western boundary-line of Alleghany County; in Little River in Johnston County from its junction with Neuse River in Wayne County to the Wake County line; in Cain River from the mouth of same to mouth of Bolling Creek in Yancey County, also Old Fields of Toe on North Toe River in Mitchell County; Johns River from its mouth to the forks of said river near Carrell Moore's in Caldwell County; Catawba River from the South Carolina line to the town of Old Fort in McDowell County, unless the owner thereof shall construct thereon at his own expense a sluice-way for the free passage of fish, of a width not less than three feet nor more than ten: *Provided*, such sluice-way shall be constructed according to plans and specifications to be furnished by the Board of Agriculture, and shall not injure the water-power of such owner: *Provided further*, in order to ascertain whether sluice-ways will or will not injure the water-power aforesaid, the owner of such dam may select two disinterested persons and the Board of Agriculture two others, who may select the fifth person to aid in the arbitration and settlement of such complaint: *Provided further*, this section shall not apply to Pigeon River in Haywood County: *Provided, also*, it shall be lawful for any person to remove any obstruction in the main channel of the Cape Fear River to the width of one hundred feet, for the free passage of fish in the county of Harnett. This proviso, however, shall not apply to any dam or obstruction placed or kept upon said river by the Cape Fear Iron and Steel Company.

Code, s. 3410; 1901, c. 208; 1880, c. 34; 1881, cc. 21, 32, 250, 320; 1905, c. 278.

remain as it is, except that "Board of Agriculture" shall read "Fish Commission."

That sections

2463. **Sluice-ways kept open when constructed.** The sluice-ways referred to in the preceding section shall be so constructed and placed upon such dams by the owner thereof within sixty days after notice has been given by the Board of Agriculture, under a penalty of one hundred dollars per day for each day thereafter that such dam shall remain without such sluice-way, and shall be kept open by him during the months of February, March, April, May, June, October, and November, and at all other times when there is sufficient water to supply both the water-power and the sluice-way, a fine of fifty dollars per day for each day said sluice-way shall be allowed to remain closed, and any person who shall fish with net, trap, hook and line, or who shall take in any way whatsoever any fish within two hundred feet of said sluice-way shall be subject to a fine of one dollar for each fish so taken, or a fine of fifty dollars for each offense, or imprisonment for thirty days.

Code, s. 3411; 1880, c. 34, s. 2.

and

2464. **Obstructions removed.** No other obstruction to the passage of fish shall exist or be built between the designated points in the streams mentioned in the two preceding sections unless an opening of not less than twenty-five feet, and not more than seventy-five feet, embracing the main channel of said streams, shall be made by the owner of such obstructions within twenty days after notice from the Board of Agriculture to make such opening under penalty of fifty dollars per day for each day such obstruction shall remain unopened. Said notice shall be served by the Sheriff of the county, and his return shall be *prima facie* evidence of notice in any suit for such penalty.

Code, s. 3412; 1880, c. 34, s. 3.

remain as they are, except that "Board of Agriculture" shall read "Fish Commission."

That section

2465. **Vessel injuring nets.** If any master or other person having the management or control of a vessel or boat of any kind, in the navigable waters of the State, shall wilfully, wantonly, and unnecessarily do injury to any seine or net, which may be lawfully hauled, set, or fixed in said waters for the purpose of taking fish, he shall forfeit and pay to the owner of such seine or net, or other person injured by such act, one hundred dollars, and shall be guilty of a misdemeanor.

Code, ss. 3385, 3389.

remain as it is.

That section

2466. **Use of dynamite for killing fish.** If any person shall use any dynamite or any other explosive agent whatever for killing fish, or shall explode any dynamite or other explosive agent in the public waters of the State where fish

are found, except for mechanical or manufacturing purposes, he shall be guilty of a misdemeanor and fined not more than fifty dollars or imprisoned not more than thirty days. The possession of fish killed by explosive agencies shall be *prima facie* evidence that explosives were used for the purpose of killing fish.

Code, s. 3405; 1889, c. 312.

remain as it is.

That section

2467. When non-resident may use seines. If any person who has not resided in the State continuously for at least twelve months next preceding the day on which he shall begin to take fish shall use, or cause to be used, in any of the waters of the State, any weir, hedge, net, or seine, for the purpose of taking fish for sale or exportation, or if any person shall assist in using, or be interested in using or causing to be used, in any such waters for the purpose aforesaid, any weir, hedge, net, seine, or tongs in the use of which any such non-resident person may have an interest, he shall be guilty of a misdemeanor. Nothing herein shall prevent any person from fishing with seines hauled to the shore at any fishery, the title to which fishery or any interest therein having been acquired by such person by purchase or inheritance. This section shall not extend to servants employed to fish by any persons allowed to fish in the navigable waters of the State: *Provided*, no non-resident of the State shall make any sale, assignment, or transfer of any fishery, weir, or other fishing apparatus, or privilege mentioned in this section, to any citizen of the State for the purpose of operating and working said fishery, weir, or other fishing apparatus as aforesaid, under the name and ownership of such citizen, or as the servant or employee of any citizen; and any sale, transfer, or assignment not made *bona fide* and for a full consideration shall be null and void. Upon affidavit founded upon information and belief that any non-resident of the State is operating any such fishery, weir, or other fishing apparatus as aforesaid in the waters of the State, under such sale, assignment, or transfer, as the pretended servant or employee of any citizen of the State, it shall be the duty of the justice of the peace before whom said affidavit is made to issue a warrant against the said non-resident and citizen under whose name said fishery is operated, and upon conviction the said offenders shall be guilty of a misdemeanor, and shall, for every offense, be fined not more than fifty dollars, or imprisoned not more than thirty days. Upon the said trial the burden of proof shall be on the defendants to prove the *bona fides* and full consideration of said sale or transfer.

Code, ss. 3379, 3380; R. C., c. 81, s. 5; 1844, c. 40, s. 1; 1876-7, c. 33; 1883, c. 171.

remain as it is.

That section

2468. In New Hanover County. If any person shall use any net for catching sturgeon in the waters of New Hanover County, the bars of the meshes of which net shall be less than ten inches in the diamond; or if any person shall fish any seine or net in the waters of said county between the first day of January and the first day of July of each year, or shall haul a seine or nets or pod fish within

three hundred yards of any established fishery, except with the nets of such fishery; or shall set or fish any stationary nets in the waters of the Cape Fear River, except on the east side thereof and in New Hanover County; or shall set any net in said river otherwise than east or west, or shall own or control more than one line of nets, or shall operate or fish any shad-nets in Cape Fear River below the mouth of Brunswick River between the fifteenth day of April and the first day of January of any year; or shall set any set-net or stationary net of any kind in the Cape Fear River north of the mouth of the Brunswick River, or in the Brunswick River; or shall operate any drift-net in the Cape Fear River of more than three hundred yards in length, or shall catch shad in said river with seines or nets from the fifteenth of May to the first of January, he shall be guilty of a misdemeanor. The possession of a sturgeon-net with meshes of a size smaller than allowed by this section shall be *prima facie* evidence of having fished the same. In setting nets in Cape Fear River as allowed by this section the following rules shall prevail: They shall begin at a point one hundred yards from the edge of the channel on the east side of said river and running thence due east one hundred and twenty yards, then leaving a gap of one hundred and twenty yards. Then from the east end of said gap another net may be set one hundred and twenty yards only, and to continue in the same proportion, always requiring a gap of one hundred and twenty yards to intervene between each one hundred and twenty yards of nets so set, and no net or sets of nets of any kind shall be placed opposite said gaps, within a distance of a half mile of same, and none of the nets so set shall be nearer than a half mile of the west shore of said Cape Fear River. An established fishery in the meaning of this section is one where there is a camp for the use of the hands, and where the seine or nets and boats used by the said fishery are kept, and where the said fishery was established prior to the first day of January, one thousand eight hundred and ninety-nine.

Code, s. 3403; 1901, c. 173; 1899, c. 440; 1881, c. 280.

remain as it is.

That section

2469. **Northeast Cape Fear.** If any person shall fish in the northeast branch of the Cape Fear River with seine, net, or trap, from the twenty-third day of February to the first day of July of any year, between the hours of six o'clock P. M. on Saturday and six o'clock P. M. on Monday of each week, or shall at any time use more than one seine at a time in any fishing-hole in said river, or use, set, or place in said river any hedge, trap, or other obstruction which will prevent the free passage of fish up said river, which said hedge, trap, or other obstruction shall extend more than one-third across the main channel of the said river, he shall be guilty of a misdemeanor. This section shall not apply to that portion of said river which lies between the city of Wilmington and a point on said river known as The Three Cypresses, twelve miles distant from said city of Wilmington.

1889, c. 182; 1891, c. 198.

remain as it is.

That section

2470. In Brunswick, New Hanover, and Pender counties. If any person shall use in any of the waters of Brunswick, New Hanover, and Pender counties any nets, seines, set-downs, fish-traps, or any other nets of any description, for the purpose of taking fish, the bars of the meshes of which nets, seines, set-downs, or fish-traps shall be less than one and one-eighth inches in length; or shall, with seines or nets of any kind, catch any fish in the waters of the Cape Fear River from its mouth to the Bladen County line, or in the waters of the Northeast Cape Fear or Black rivers in Pender County between six o'clock P. M. on Tuesday and six o'clock P. M. on Wednesday, or shall obstruct the free passage of fish in the waters of said rivers, he shall be guilty of a misdemeanor.

1885, c. 226; 1887, c. 71.

remain as it is.

That section

2471. In Black River and Mingo Creek. If any person shall fish in that part of Black River in Sampson and Cumberland counties and below the Atlantic Coast Line Railway bridge, or in Mingo Creek in said counties below the Averasboro and Clinton road otherwise than with a hook and line, he shall be guilty of a misdemeanor.

1895, c. 276.

remain as it is.

That section

2472. In certain streams in Cumberland, New Hanover, Brunswick, and Sampson counties. If any person shall catch or destroy with seines, nets, firearms, bows and arrows, or by muddying or stirring the waters, or by striking any fish of any kind in the waters of Black or South rivers, or the waters of Big Coharie, Little Coharie, Bear Skin, and Big Swamps in the counties of New Hanover, Sampson, Cumberland, and Harnett, and of the waters of Six Runs in the counties of New Hanover and Sampson, and of the waters of the Cape Fear River in the counties of New Hanover and Brunswick, and of the northeast branch of the Cape Fear River in the county of New Hanover, between the fifteenth days of May and August of each year, he shall be guilty of a misdemeanor, and fined not to exceed five dollars.

Code, s. 3409; 1889, c. 414; 1871-2, c. 152; 1879, c. 283; 1881, c. 369.

remain as it is.

That section

2473. Obstructions in South Fork River. No person or corporation shall place or allow to remain in the South Fork River, from its mouth in Gaston County to its forks in Catawba County, any obstruction to the free passage of fish up said stream: *Provided*, this section shall not apply to milldams where the owners thereof shall construct a sufficient fishway over said dams at least ten feet wide which will allow fish to pass over said dams: *Provided further*, this

section shall not apply to dams in existence, or which may be erected for manufacturing or milling purposes. The violation of this section shall be a misdemeanor.

Code, s. 3406; 1879, c. 244, ss. 1, 2; 1881, c. 90.

remain as it is.

That section

2474. **Obstructions in Neuse River.** Any person who shall construct a dam, put in traps, dutch-net, wire seine, or anything else in Neuse River between its mouth and the Falls of Neuse in Wake County, for the purpose of obstructing the passage of fish in said river, shall be guilty of a misdemeanor, and be fined not exceeding fifty dollars or imprisoned not exceeding thirty days: *Provided*, this section shall not apply to seines, set-nets, running or skimming nets: *Provided*, this section shall not prevent the use of traps in Wayne County, where the trap and its wings do not extend more than one-third across the stream.

Code, s. 3422; 1885, c. 391; 1893, c. 354; 1883, c. 301, ss. 1, 2; 1895, c. 403; 1901, c. 395.

remain as it is.

That section

2475. **Regulated in Lumber River.** It shall be unlawful for any person to use any seine, net, or gig, or, by muddying the water or by shooting, to catch, take, or kill fish in Lumber River by any means except the ordinary rod, line, and hook, from the first day of March to the first day of November in each and every year; and any person violating this section shall be guilty of a misdemeanor, and shall pay a fine of forty dollars or be imprisoned not more than twenty days.

Code, s. 3404; 1881, c. 288, ss. 1, 2; 1883, cc. 13, 78.

remain as it is.

That section

2476. **Fishways to be erected in Haw River.** All persons maintaining dams across Haw River in the county of Chatham shall, upon thirty days' notice from the Board of Commissioners of said county, establish fishways in said dams; and if said fishways shall not be made within three months from the service of the notice, said persons so offending shall be guilty of a misdemeanor, and fined at the discretion of the Court.

Code, s. 3402; 1881, c. 343, ss. 1, 2.

remain as it is.

That section

2477. **Regulated in Nantahala River.** If any person shall use any drag-net, basket, or seine for the purpose of catching fish in Nantahala River or its tributaries, he shall be guilty of a misdemeanor, and fined not less than five nor more than twenty dollars for each offense, one-half to go to the school fund of the

county where such offense is tried, and the other half to the informer; and whenever the Nantahala River forms the dividing line between any counties persons offending against this section may be prosecuted and punished in the courts of the counties between which the said river constitutes the dividing line.

Code, s. 3401; 1881, c. 30, ss. 1, 3.

remain as it is.

That section

2478. **Robbing nets.** If any person shall, without authority of the owner, take any fish from any nets of any kind, he shall be guilty of a misdemeanor.

Code, s. 3418; 1883, c. 137, s. 5.

shall be amended so that the following shall be added to the section: "and shall be fined not less than fifty dollars or imprisoned not less than thirty days."

That section

2479. **Obstructions in certain streams in Henderson County.** No person shall make, construct, or build any dam, drag-net, or seine across more than three-fourths of the French Broad, Mills, Green, or Broad rivers, or any of their tributaries, in Henderson County, so as to prevent or hinder the free passage of fish in said rivers and their said tributaries, and any person making or using any dam, drag-net, or seine in said streams shall leave open and unobstructed to the free passage of fish at least one-fourth of said streams, in width, on the side most favorable to the passage of fish. Any person offending against this section shall be fined not more than ten dollars for each twenty-four hours said streams are so obstructed, one-half to the party suing for the same and the other half to the school fund in said county; and any person violating this section shall, in addition to the penalty prescribed, be guilty of a misdemeanor: *Provided*, this section shall not apply to dams for manufacturing purposes.

Code, s. 3425; 1885, c. 58.

remain as it is.

That section

2480. **Trout in Cataloochee Creek, Haywood County.** If any person shall fish for trout in Cataloochee Creek or its tributaries in Haywood County, and offer such trout for sale as a matter of traffic, or shall fish for trout in such streams without permission from the owners of the land contiguous thereto, he shall be guilty of a misdemeanor, and be fined not more than twenty dollars or imprisoned not more than ten days.

1885, c. 61.

NOTE.—For manner of establishing prior right of fishery, see ss. 1697, 1698.

remain as it is.

That section

2481. **Mullets in Brunswick County.** If any person, firm, or corporation shall fish for and catch any mullets with any purse-seine or purse-net in the waters within the limits of Brunswick County, extending to the extreme limits of the State's jurisdiction in and over said waters—and for the purpose of this section any portion of any water within a distance of three nautical miles from the outer shores of said county shall be deemed the waters of said county—or if the master or any employee on any steamboats engaged in fishing for menhaden or fatbacks shall discharge from said boat fish offal, blood, or slime within a distance of one-half a mile of any established mullet fishery on the Brunswick County coast between the first of August and the thirty-first of December of each year, he shall be guilty of a misdemeanor, and upon conviction shall be fined or imprisoned at the discretion of the Court. For the purposes of this section an established fishery is declared to be that point on the beach occupied by the surfboat and seine in regular use.

1905, c. 748.

remain as it is.

That section

2482. **Fishing within twelve miles of Grandfather Mountain.** If any person shall take, catch, or kill any kind of fish in the waters of Linville River or in any other stream within twelve miles from the summit of Grandfather Mountain in Mitchell County, without the written consent of the owners or lessees of the land through which said streams flow, or shall throw or empty into said river or streams any matter or substance deleterious or injurious to the life of mountain trout, he shall be deemed guilty of a misdemeanor, and shall be fined not more than fifty dollars or imprisoned not more than thirty days. If any person be seen at or near said stream or streams with net, seine, rod, or any other kind of fishing tackle, the same shall be *prima facie* evidence of the violation of this section.

1905, c. 113.

remain as it is.

That section

2483. **Fish-traps in Cape Fear River.** If any person shall construct, operate, or maintain any fish-traps in the Cape Fear River, or shall fail to remove all traps now in the channel of said river within sixty days from the first day of March, one thousand nine hundred and five; or shall fail on the first day of June of each year to remove the slats or fingers from any fish-trap allowed to be operated in said river under this section, he shall be guilty of a misdemeanor. This section shall not apply to Brunswick or New Hanover counties or to a fish-trap which extends to not more than one-third the channel of said river.

1905, c. 500.

remain as it is.

That section

2484. **Kitty Hawk Bay.** If any person shall take, catch, or capture any fish with nets or other appliances in the waters of Kitty Hawk Bay and its tributaries, that part lying in Dare County, between the thirtieth day of April and the fifteenth day of October of each year, or shall sell or ship out of the county any chub or perch between said dates, he shall be guilty of a misdemeanor, and fined not more than fifty dollars or imprisoned not more than thirty days. Nothing in this section shall prevent any citizen from catching fish at any time for home consumption.

1905, c. 363.

remain as it is.

Besides the suggestions and recommendations regarding the present laws as they stand on the statute-books, the committee would recommend the following general legislation:

NEW GENERAL LAWS.

Section .... Early closing season for shad and alewife or herring. All shad apparatus on the Cape Fear River below the mouth of Black River shall be taken out of the river by April the twentieth, and all above this point shall be taken out by May the first; in North East Cape Fear River below Castle Hayne all shad apparatus shall be taken out by April the twentieth and all above that point by May first; in the Black and other tributaries of the Cape Fear River all shad apparatus shall be taken out by May first; in the Neuse River all gill-nets used for shad and alewife fishing shall be taken out of the river by April tenth; but all other shad and alewife apparatus in the Neuse River at or below the town of New Bern shall be taken out by May first and all above that town by May tenth; in Pamlico and Pungo rivers all gill-nets operated for shad and alewife fishing shall be taken out by April fifth, and all other alewife and shad apparatus shall be taken out by May first; in Tar River all shad and alewife apparatus shall be taken out of the river by May tenth; in Pamlico, Roanoke, Croatan, and Albemarle sounds east of Perquimans River on the north and Ship Point on the south (this to apply to the tributaries of the sound in this section) all gill-nets shall be taken out by April fifth, and all shad and alewife apparatus shall be taken out by April twenty-eighth, and in that portion of the Albemarle Sound west of the above points as far as Horney Blow Point on the north and Mackey's Creek on the south all gill-nets shall be taken out by April tenth, and all other shad and

alewife apparatus shall be taken out by May twelfth; thence west as far as the mouth of Chowan River, all gill-nets operated for shad and alewife fishing shall be taken out by April fifteenth, and all other shad and alewife apparatus shall be taken out by May twelfth, these dates to apply to the tributaries of this section of Albemarle Sound; in Chowan River all shad and alewife apparatus shall be taken out of the river by May fifteenth. If any person shall set or fish any net wilfully in violation of this section, he shall be guilty of a misdemeanor and fined not less than fifty dollars: *Provided*, that all pound-nets in any part of the waters mentioned in this section that are cut down in order to rid them of moss are to be considered as fulfilling the law.

Section .... **Double seining.** All double seining in any of the waters or rivers of the State, and the hauling or drawing two seines in succession over the same bottom or within four hundred yards of that bottom is hereby prohibited, and any person violating this section shall for each violation be fined not less than two hundred and fifty dollars nor more than five hundred dollars.

Section .... **Protection of sturgeon.** No person shall set or fish any sturgeon-net in the inland waters of North Carolina for a period of five years from the date of the passage of this act, and all sturgeons less than five feet long caught in any other manner whatever shall be returned to the water alive, and any person violating this section shall be guilty of a misdemeanor and fined not less than fifty dollars or imprisoned not less than twenty days; and the possession of any sturgeon less than five feet in length shall be *prima facie* evidence that the person having the same is violating this section. For the purposes of this act inland waters are defined as all waters of the State lying within the ocean inlets and the mouths of rivers and bays opening directly into the sea.

Section .... **Rockfish.** If any person shall offer for sale any rockfish weighing less than one-half pound, he shall be guilty of a misdemeanor and be fined ten dollars for every offense.

Section .... **Purse-net.** No person shall use or fish a purse-net for rockfish or perch in any of the waters in North Carolina, except in the open sea, and any person offending against this section shall be fined not less than fifty dollars for each offense.

Section .... Shad and herring. Any person who shall catch or cause to be caught any shad or herring in the waters of the State of North Carolina for any other purpose than as food shall be guilty of a misdemeanor and fined not less than fifty dollars or imprisoned not less than thirty days.

Section .... Fishing on Sunday. If any person shall fish, haul, set, draw, or place in the water for fishing purposes, any net from midnight of Saturday night to midnight of Sunday night, he shall be guilty of a misdemeanor and fined not less than twenty-five dollars for each and every offense.

Section .... License to fish. Each and every person, firm, or corporation before commencing or engaging in any kind of fishing in the State shall file with the Sheriff of the county in which he desires to fish, a sworn statement as to the number and kind of nets, seines, or other apparatus that it is intended to use in fishing. Upon filing this statement the Sheriff shall issue to the said party or parties a license as prescribed by law; said applicant shall pay to the Sheriff a license fee equal in amount to the fee or tax prescribed by law and an additional fee of twenty-five cents for issuing said license and receiving said tax. This license shall extend through a period of twelve months from date of its issue. Any person who shall wilfully use for fishing purposes any kind of net whatever without having first complied with the provisions of this section shall be guilty of a misdemeanor and be fined twenty-five dollars for each and every offense.

Section .... Licenses reported monthly. The Sheriff of each county in which licenses to fish are issued shall, on or before the tenth day of each month, mail to the Fish Commissioner a statement showing all licenses issued during the preceding month, to whom issued, and for what purpose. The Commissioner shall have prepared and mailed to each inspector a list of all persons, firms, or corporations to whom license has been issued, together with a statement as to the number and character of the nets said licensee is authorized to use.

Section .... License fees collected. All moneys collected by the sheriffs of the respective counties in which they serve, representing license taxes and fees for fishing privileges, shall be paid over to the Fish Commissioner on the first day of each month.

Section .... License tax. The following license tax is hereby levied upon the different fishing appliances used in the waters of North Carolina:

Anchor gill-nets, 20 cents per 100 yards or fraction thereof.

Stake gill-nets, 10 cents per 100 yards or fraction thereof.

Drift gill-nets, 20 cents per 100 yards or fraction thereof.

Pound-nets, $1.00 each.

Seine and drag-nets under 100 yards, $1.00 each.

Seine and drag-nets over 100 yards and under 300 yards, $1.00 per 100 yards or fraction thereof.

Seine and drag-nets over 300 yards and under 1,000 yards, $1.25 per 100 yards or fraction thereof.

Seine and drag-nets over 1,000 yards, $1.75 per 100 yards or fraction thereof.

Outside mullet-seines fished in ocean, $2.00 per 100 yards.

Purse-nets used with power boats, $3.00 per 100 yards or fraction thereof.

Purse-nets used with sail-boats not reinforced with steam or other power, $2.50 per 100 yards or fraction thereof.

Fyke-nets, 25 cents each.

Minor nets, 20 cents each.

TERRAPIN INDUSTRY.

The terrapin industry was thoroughly discussed and a paper prepared by Mr. R. E. Coker for the North Carolina Geological Survey on the Cultivation of the Diamond-back Terrapin was submitted to the committee. After thorough and careful consideration, it was decided that with a slight modification, the present laws relating to the terrapin were adequate, if enforced, to protect this industry and insure an increase in the number of terrapins in North Carolina waters. The committee, therefore, recommend that Section 2369, which reads as follows, remain unchanged:

2369. **Use of drag-nets by non-residents for catching terrapin forbidden.** If any person who is not a citizen and who has not resided in the State continuously for the preceding two years shall use any drag-net or other instrument for catching terrapin he shall be guilty of a misdemeanor.

Code, s. 3375, 3376.

2370. **Diamond-back terrapin protected.** If any person shall take or catch any diamond-back terrapin between the fifteenth day of April and the fifteenth day of August of any year, or any diamond-back terrapin at any time, of less

size than five inches in length upon the bottom shell, or shall interfere with or in any manner destroy any eggs of the diamond-back terrapin, he shall be guilty of a misdemeanor, and shall be fined not less than five dollars nor more than ten dollars for each and every diamond-back terrapin so taken or caught, and a like sum for each and every egg interfered with or destroyed: *Provided*, this section shall not apply to parties empowered by the State to propagate the said diamond-back terrapin; and the possession of any diamond-back terrapin between the fifteenth days of April and August shall be *prima facie* evidence that the person having the same has violated this section. It shall be the duty of all sheriffs and constables to give immediate information to some justice of the peace of any violation of this section.

Code, s. 3377; 1899, c. 582; 1881, c. 115, ss. 1, 6.

It is recommended that this paragraph be changed so that it will read as follows:

If any person shall take or catch or have in his possession any diamond-back terrapin between the first day of March and the thirty-first day of August of any year, or any diamond-back terrapin at any time, of less size than five inches in length upon the bottom shell, or shall interfere with, or in any manner destroy any eggs of the diamond-back terrapin, he shall be guilty of a misdemeanor, and shall be fined not less than five dollars, nor more than ten dollars, for each and every diamond-back terrapin so taken or caught, and a like sum for each and every egg interfered with or destroyed: *Provided*, that this section shall not apply to parties empowered by the State to propagate the said diamond-back terrapin; and the possession of any diamond-back terrapin between the first day of April and thirty-first day of August shall be *prima facie* evidence that the person having the same has violated this section: *Provided further*, that the provisions of this act shall apply to any person, firm, or corporation receiving or having for transportation undersized terrapins, or during the closed season terrapins of any size whatever. It shall be the duty of all sheriffs and constables to give immediate information to some justice of the peace of any violation of this section.

The committee in framing this act has given serious consideration to the fact that at the present time the quantity of diamond-back terrapin in the waters of North Carolina is extremely limited and is growing less and less every year, and unless some stringent remedy is employed to protect the terrapin, it is the question of but a few years when this valuable food product will be entirely exterminated. It is, therefore, absolutely essential that the closed season shall extend from the first day of March through the thirty-first day of August and that this law shall be vigorously enforced.

OYSTER INDUSTRY.

After mature deliberation the committee were of the unanimous opinion that a Shell-fish Commission should be established and inaugurated by the Legislature on similar lines as those relating to the formation of the Fish Commission; believing that if legislation is obtained regarding the cultivation of the oyster and the leasing of bottoms for that purpose, it will require the Shell-fish Commissioner and the Deputy Commissioner to devote all their time to the carrying out of the duties of their office. The committee, therefore, unanimously recommend the organization of a Shell-fish Commission according to the following:

1. North Carolina Shell-fish Commission. The Shell-fish Commission shall, except as in this act otherwise provided, consist of a single Commissioner. He shall be appointed by the Governor by and with the advice and consent of the Senate within thirty days after the passage of this act. He shall be responsible for the carrying out of the duties of his office to the Geological and Economic Survey Board, and shall make semi-annual reports to them. The term of office of such Commissioner and his successors in office shall be four years or until their successors are appointed and qualified, and in case of vacancy in the office, the appointment shall be to fill the vacancy. The said Commissioner shall appoint a Deputy Commissioner, who, during the absence or inability to act of the Commissioner, shall have and exercise all of the powers of the Commissioner. The Shell-fish Commissioner and Deputy Commissioner shall each execute and file with the Secretary of State bonds in the sum of seven thousand and five thousand dollars respectively, with sureties to be approved by the Secretary of State, conditioned for the faithful performance of their duties and to account for and pay over, pursuant to law, all moneys received by them in their office. The Shell-fish Commissioner shall take and subscribe an oath to support the Constitution and for the faithful performance of the duties of his office, which oath shall be filed with the bond. The Deputy Commissioner may be removed from his office for cause by the Commissioner, who may appoint his successor.

Inspectors, how appointed; term; salary; bond; oath of office. The Shell-fish Commissioner shall appoint, from the counties within which they are to perform their duties, a sufficient number of inspect-

ors, who shall serve during the oyster season, and may remove them for cause. He shall fix the compensation of the inspectors at not exceeding fifty dollars a month while on duty, and shall designate the length of service, the time when the inspectors go on duty and when they go off. The inspectors shall give bond in the sum of five hundred dollars, payable to the State of North Carolina, conditioned for the performance of the duties of their office, and the faithful accounting for all moneys received, which bond shall have at least two sufficient sureties, to be justified before, approved by, and filed with the Clerk of the Superior Court of the county where they reside, and shall take, subscribe, and file with such Clerk an oath of office. They shall be paid only for the time they serve.

Office and clerical force. The Commissioner shall have an office in some town conveniently located to the oyster-beds of the State, and he is authorized to employ such clerks as may be necessary for the proper carrying on of the work of his office.

Equipment. The Shell-fish Commissioner is authorized, by and with the consent of the Geological and Economic Survey Board, to purchase or rent such boats, dredges, and other equipment as may be necessary to enable him and his deputies to carry out the duties of his office as specified in this act.

Duties of the Shell-fish Commissioner. The Shell-fish Commissioner shall have a general supervision over every branch of the shell-fish industry, including the oyster, clam, scallop, and other mollusca, and see that the laws regulating the same are rigidly enforced. He shall collect and compile statistics showing the annual product of the oysters, clams, and other mollusca that are taken out of the waters of the State, and the capital invested and the apparatus employed; he shall have surveyed and marked in a prominent manner those areas of bottoms in the waters of the State in which oyster-tonging or dredging is prohibited by law, or those areas which are leased for the purpose of the cultivation of oysters or clams; he shall be responsible for the collection of all license fees, taxes, fines, or other imposts upon any of the shell-fish fisheries, and shall receive all fines imposed for the infraction of the shell-fish laws, and shall collect all rentals for bottoms leased for oyster or clam cultivation, and shall pay same into the State Treasury to the credit of the Shell-fish Commission fund to be drawn upon as directed by the Geological and

Economic Survey Board; he shall see that the laws regulating the catching and handling of oysters, clams, and other mollusca are enforced; that no illegal methods are used in catching, selling, or shipping; that the cull law is rigidly enforced, and that only proper and legal methods are used in buying and selling. He shall prosecute all violations of the law, and whenever it is necessary he may employ counsel for this purpose. He shall in his official capacity have power to administer oaths and to send for and examine persons and papers; he shall, on or before the twenty-fifth day of each month, mail to the Treasurer of the State a consolidated statement showing the amount of taxes collected during the preceding month, and by and from whom collected. He shall make a semi-annual report to the Geological and Economic Survey Board, setting forth in detail an account of his official acts, the condition of the oyster and other shell-fish industries in all their branches, and shall recommend such additions to or modifications of existing laws relating thereto as he may deem proper and necessary.

Arrests without warrant, when and how made. The Shell fish Commissioner, Deputy Commissioner, and inspectors shall have power, with or without warrants, to arrest any person violating the fishery laws.

Power to take oysters and clams. The Shell-fish Commissioner and the United States Bureau of Fisheries may take and cause to be taken for scientific purposes any oysters, clam, or other mollusca at any time from the waters of the State, any law to the contrary notwithstanding.

Salaries. The salary of the Shell-fish Commissioner shall be fifteen hundred dollars per year and the expenses necessarily incurred by him in the discharge of his duties. The salary of the Deputy Shell-fish Commissioner shall be nine hundred dollars per year and the expenses necessarily incurred by him in the discharge of his duties. The salaries of clerks and of scientific assistants which may be employed from time to time are to be fixed by the Geological and Economic Survey Board.

No interest in oyster, clam, or other mollusca fisheries. The Shell-fish Commissioner, Deputy Commissioner, and inspectors shall not be interested in any oyster, clam, or other mollusca fishing industry in North Carolina.

Revenue. All license fees, taxes, rentals of oyster and clam bottoms, fines or other imposts upon the oyster, clam, scallop, and other mollusca fisheries, or fines imposed for infraction of the oyster, clam, and other mollusca fishery laws, in whatever manner collected, shall be paid to the State Treasurer to the credit of the Shell-fish Commission fund, to be drawn upon as directed by the Geological and Economic Survey Board, and shall constitute the revenue of the Shell-fish Commission.

If the organization of a Shell-fish Commission as outlined above is incorporated, then Sections 2398, 2403, 2404, 2405, 2406, 2407, 2422, which are given beyond, should be repealed.

PRESENT LAWS RELATING TO OYSTERS.

The present laws relating to oysters and clams as given in the Code Revisal of 1905 were then considered, the committee passing the following resolutions:

That section

2371. **Natural, defined.** A natural oyster or clam bed, as distinguished from an artificial oyster or clam bed, shall be one not planted by man, and is any shoal, reef, or bottom where oysters are to be found growing in sufficient quantities to be valuable to the public.

1893, c. 287, s. 1.

be amended so as to read as follows:

In the waters of North Carolina a natural oyster reef or bottom shall be considered and defined as an area containing not less than a continuous area of one acre of the bottom on which oysters are found growing natural at the time or have been so found during a period of five years preceding the time at which the decision be made and in sufficient quantities to make their fishing profitable by means of hand-tongs on such ground as are reserved exclusively for tonging, or dredges on such beds as are designated for dredging: *Provided,* that no intervals of less than one hundred yards shall be considered as breaking the continuity of the bed.

That section.

2372. **Planted in certain territory.** Any inhabitant of this State may make a bed in any of the waters of this State, except that part designated as lying south of Roanoke and Croatan sounds and north of Core Sound, and lay down or plant oysters or clams therein, having first obtained license as hereinafter directed from the Superior Court Clerk of the county wherein such bed may be, and he

may stake out the grounds so as to include not exceeding ten acres with good and substantial stakes, extending at least two feet above high water-mark, and placed at such intervals as to make the boundaries of such bed or garden distinctly known; and every person who shall obtain such license shall hold the same and have exclusive privilege thereof to him, his heirs and assigns. But no person may have more than one such bed in the same county: *Provided*, nothing herein shall be construed to affect the rights of any owner or proprietor of lands in which there may be creeks or inlets, or which may be adjacent to any navigable waters, or to authorize any person to appropriate to his own use or to stake off and enclose any natural oyster or clam bed, or in anywise to infringe the common right of the citizens of the State to any such natural bed or to obstruct the free navigation of the waters aforesaid.

Code, s. 3390; 1883, c. 332, ss. 1, 2.

be repealed, provided the legislation relating to the cultivation of the oyster is passed.

That section

2373. **How license is obtained.** Whenever a license is desired according to the preceding section, the Clerk of the Superior Court of the county wherein the proposed oyster or clam bed may be may, in his discretion, grant a license to make such oyster or clam bed to any inhabitant of this State who shall apply therefor as herein provided; such applicant shall first stake off the proposed oyster or clam bed as provided in the preceding section, and shall publish a notice for thirty days at the court-house door of the county wherein said bed is proposed, designating the location thereof as near as may be and the day when he will apply for the issuing such license. Upon the day named in said notice upon which application for such license is to be made any inhabitant of such county shall have the right to appear before said Clerk and object to the issuing of such license by filing an affidavit stating that the proposed oyster or clam bed is a natural oyster or clam bed. If the said applicant shall refuse to file an affidavit denying the proposed oyster or clam bed is a natural bed, the said Clerk shall refuse to grant such license. If such applicant shall file an affidavit denying that such proposed bed is a natural bed, it shall be the duty of such Clerk to transmit said affidavits to the next term of the Court of said county, and at said term the issue shall be tried to determine whether the proposed bed is a natural bed, and after such trial the said Clerk shall grant or refuse said license in accordance with the judgment rendered upon the determination of such issue.

Code, s. 3391; 1893, c. 287, s. 2.

be repealed.

That section

2374. **County Commissioners to cause survey to be made.** The Board of County Commissioners may in their discretion cause to be made, not oftener than once in twelve months, a survey and examination of any and every such oyster or clam bed or garden in their county, the result of which examination or survey shall be reported under oath to the Clerk of the Superior Court; and if it be

found that the holder of such license as aforesaid has included within his stakes any natural oyster or clam bed, or a space containing more than ten acres, he shall forfeit such license and all the rights and privileges thereto belonging; further, if the holder of such license fail for the space of two years either to use such bed or to keep it properly designated by stakes, he shall forfeit such license and all the rights and privileges therein granted.

Code, s. 3392; 1883, c. 332, s. 4.

be repealed, provided the legislation relating to the cultivation of the oyster is passed.

That section

2375. Under control of the State. The State shall exercise exclusive jurisdiction and control over all shell-fisheries which are or may be located in the boundaries of the State south of Roanoke and Croatan sounds and north of Core Sound, and for the purposes of this chapter the southern boundary-line of Hyde County shall extend from the middle of Ocracoke Inlet to the Royal Shoal lighthouse, thence across Pamlico Sound and with the middle line of the Pamlico and Pungo rivers to the dividing line between the counties of Hyde and Beaufort, and the northern boundary-line of Carteret County shall extend from the middle of Ocracoke Inlet to the Royal Shoal lighthouse, thence to the Brant Island Shoal lighthouse, thence across Pamlico Sound to a point midway between Maw Point and Point of Marsh, and thence with the middle line of the Neuse River to the dividing line between the counties of Carteret, Craven, or Pamlico, and that portion of Pamlico Sound and the Neuse and Pamlico rivers not within the boundaries of Dare, Hyde, or Carteret counties, and not a part of any other county, shall be in the county of Pamlico, and for the purposes of this chapter and in the execution of the requirements thereof the shore line as now defined by the United States Coast and Geodetic Survey shall be accepted as correct.

1887, c. 119, ss. 1, 2.

be repealed.

That section

2376. How beds entered. Any person a citizen and *bona fide* resident of the State desiring to raise, plant, or cultivate shell-fish upon any ground in the county, and within the territory described in the preceding section, which has not been designated as public ground by the Board of Shell-fish Commissioners and which is not a natural clam or oyster bed, may make application in writing, in which shall be stated as nearly as may be the area, limits, and location of the ground desired, to the entry-taker of the county in which the said area for which application is made is situated, for a franchise for the purpose of raising or cultivating shell-fish in said grounds, and the said entry-taker having received said application shall proceed as with all other entries as provided in the chapter entitled Grants, except that the warrant to survey and locate the ground or grounds shall be delivered to the engineer appointed by the Secretary of State and not to the county surveyor; and the said engineer shall make such surveys in accordance with the provisions of the chapter entitled Grants, except that it

shall not be necessary to employ chain-bearers nor to administer oaths to assistants, nor to make surveys, according to the priority of the application or warrant. No entry shall be made to cover any natural oyster or clam bed as defined in this c[illegible] or of any land lying more than two miles from the mainland or from any island.

1887, c. 119, s. 5; 1893, c. 272.

be repealed.

That section

2377. How leased. Any person who is and has been continuously for two years a *bona fide* resident of the State of North Carolina and over twenty-one years of age may lease or enter not more than fifty acres of any bottom where oysters do not naturally grow or on any ground where there is not a sufficient growth of oysters to justify at the time of leasing the gathering of the same for profit. When any person desires to lease or enter any such ground he shall advertise the fact at the court-house and three other places for four weeks in the county where said bottom desired to be leased is located, and advertise in some newspaper published in said county for four weeks, and if there be none published in said county, then in a newspaper published in an adjoining county. Application for such land shall be made to the Clerk of the Superior Court, who shall appoint a man and the applicant shall choose another, which two so chosen shall appoint a third man, and the three shall constitute a board of arbitration, and the said board of arbitration shall inspect the bottom desired to be leased, and if they find the same subject to lease and so report to the Clerk, then it shall be the duty of the said Clerk to issue a lease as herein provided, and for such service the Clerk shall receive the following fees, to-wit: Twenty-five cents for the application, twenty-five cents for the appointment, and twenty-five cents for filing the report of arbitration, and copy-sheet fees for recording such lease and other papers necessary to be recorded. Such bottom shall be surveyed by the county surveyor; all cost and expense to be paid by the lessee, who shall also pay a yearly rental of fifty cents per acre, which rental shall be paid to the Oyster Commissioner and go to the benefit of the oyster fund. A failure to pay rental for two years shall render the lease null and void. No bottom which has been surveyed prior to sixth day of March, one thousand nine hundred and five, need be resurveyed where such leases are plainly marked at that time. The county surveyor shall furnish the lessee a map or plot free of charge. No lease shall be issued for any ground closer than two hundred yards to any natural oyster bed.

1905, c. 525, s. 2.

be repealed, provided that the legislation regarding the cultivation of the oyster is passed.

That section

2378. Secretary of State to issue grant; amount granted limited. The Secretary of State, on receipt of the Auditor's certificate as provided in the chapter on Grants, shall grant to the applicant a written instrument conveying a perpetual franchise for the purpose of raising and cultivating shell-fish in and to the grounds for which application is made; and the said written instrument

of conveyance shall be authenticated by the Governor, countersigned by the secretary and recorded in his office. The date of the application for the franchise and a description of the ground for which such franchise was granted shall be inserted in each instrument, and no grant shall issue except in accordance with a certificate from the engineer appointed by the Secretary of State as to the area, limits, and location of the grounds in which the said franchise is to be granted, and every person obtaining such grant or franchise shall, within three months from the receipt of the same, record said written instrument in the office of the Register of Deeds for the county wherein the said grounds may lie and shall define the boundaries of the said grounds by suitable stakes, buoys, ranges, or monuments; but no franchise shall be given in or to any of the public grounds as determined by the commissioners of shell-fisheries, or to any natural oyster or clam bed, and all franchises granted under this section or any previous law shall be and remain in the grantee, his heirs and legal representatives: *Provided*, that the holder or holders shall make in good faith within five years from the day of obtaining said franchise an actual effort to raise and cultivate shell-fish on said grounds. No grant shall be made to any one person of more than ten acres of any territory, and no person shall hold more than ten acres in any creek unless the same shall be acquired through devise, inheritance, or marriage.

1887, c. 119, s. 6; 1893, c. 272.

be repealed.

That section

2379. Price paid for franchise. Not less than seventy-five cents per acre shall be paid to the State Treasurer for all franchises granted, and in all other respects as to protests of entry and the right of the Secretary of State to sell to any one else at an increased price the chapter on Grants shall apply.

1887, c. 119, s. 7.

be repealed.

That section

2380. Liable to taxation. All grounds taken up or held for the purpose of cultivating shell-fish shall be subject to taxation as real estate, and shall be so considered in the settlement of the estates of deceased or insolvent persons.

1887, c. 119, s. 9.

be repealed.

That section

2381. Books of records of grants kept. The Secretary of State shall keep books of record in which shall be recorded a full description of all grounds granted under the provisions of this chapter, and shall keep a map or maps upon which shall be shown the positions and limits of all public and private grounds.

1887, c. 119, s. 14.

be amended in that "Secretary of State" shall read "Shell-fish Commission," provided the bill creating the Shell-fish Commission is passed.

That section

2382. **Form of grants approved by Attorney-General.** Entry-takers shall make return to the Secretary of State of all franchises granted under this chapter, in the same manner as provided in the chapter entitled Grants, and the provisions of that chapter are hereby extended so as to cover the grants or franchises in ground for raising or cultivating shell-fish as authorized by this chapter; and all applications, grants, warrants, and assignments of franchises in or to oyster grounds shall be in manner and form as approved by the Attorney-General of the State.

1887, c. 119, s. 12.

be repealed.

CATCHING OYSTERS.

That section

2383. **Close season, exception.** If any person shall buy or sell oysters in the shell which have been taken from the public grounds or natural oyster-beds of this State between the first day of April and the first day of October in any year, he shall be guilty of a misdemeanor and be fined not more than fifty dollars or imprisoned not more than thirty days: *Provided*, that oysters may be taken with hand-tongs only during the month of April in any year, to be used for planting on private grounds, entered and held under the laws of this State: *Provided further*, that oysters may be taken with hand-tongs only for home consumption: *Provided further*, that coon oysters may be taken from October first to May first of each year in the waters of Onslow and Carteret counties: *Provided, also*, that it shall be lawful to take or catch oysters on public oyster-grounds north of the line running from Point Peter to Duck Island, except between a line running from the east end of Hog Island to the beach and from Ballast Point to the beach in Dare County, to be sold to residents or non-residents, from April first to May fifteenth of each year, upon the payment by the purchaser of a tax of one and one-half cents per tub.

1903, c. 516, s. 22; 1905, c. 525, ss. 5, 8.

be amended so as to read as follows:

If any person shall buy or sell oysters in the shell which have been taken from the public grounds or natural oyster-beds of this State between the first day of April and the fifteenth day of October in any year, he shall be guilty of a misdemeanor, and be fined not less than fifty dollars or imprisoned not less than thirty days: *Provided*, that oysters may be taken with hand-tongs only during the month of April in any year, to be used for planting on private grounds, entered and held under the laws of this State, upon the condition further that they shall not be removed from said private beds within a period of three months from time of planting: *Provided further*, that oysters may be taken with hand-tongs only for home consumption: *Provided further*, that coon oysters may be taken from October first to May

first of each year in the waters of Onslow and Carteret counties: *Provided, also,* that it shall be lawful to take or catch oysters in public oyster-grounds north of the line running from Point Peter to Duck Island, except between a line running from the east end of Hog Island to the beach and from Ballast Point to the beach in Dare County, to be sold only to residents of the State for planting purposes, from April first to May fifteenth of each year, upon the payment by the purchaser of a tax of one and one-half cents per tub.

That section

2384. **At night or on Sunday.** If any person shall catch or take any oysters from any of the public grounds or natural oyster-beds of the State at night or on Sunday, he shall be guilty of a misdemeanor, and be fined not exceeding fifty dollars or imprisoned not exceeding thirty days.

1903, c. 516, s. 16.

remain as it is.

That section

2385. **Illegal dredging.** If any person shall use any scoops, scrapes, or dredges for catching oysters, except at the times and in the places in this chapter expressly authorized, or shall between the fifth day of April and the fifteenth day of November of any year carry on any boat or vessel any scoops, scrapes, dredges, or winders, such as are usually or can be used for taking oysters, he shall be guilty of a misdemeanor.

1903, c. 516, ss. 13, 14, 15.

remain as it is.

That section

2386. **Catching oysters without license.** If any person shall catch oysters from the public grounds of the State without having first obtained a license according to law, or shall employ any person as agent or assistant, or shall as the agent or assistant of any person catch oysters from the public grounds, without all of said persons having first obtained a license according to law, he shall be guilty of a misdemeanor, and be fined not exceeding fifty dollars or imprisoned not exceeding thirty days.

1903, c. 516, s. 6.

remain as it is.

That section

2387. **Using boats not licensed.** If any person shall use any boat or vessel in catching oysters, which boat has not been licensed according to law, and which is not in all respects complying with the law regulating the use of such vessels, he shall be guilty of a misdemeanor, and shall be fined not more than fifty dollars nor less than ten dollars or imprisoned not more than thirty nor less than ten days for the first offense, but for the second or subsequent offense he shall be guilty of a misdemeanor, and punished at the discretion of the Court.

1903, c. 516, s. 8.

remain as it is.

That section

2388. **Displaying false number on boat.** If any person shall display any other number on their sail than the one specified in their license, or display a number when the boat or vessel has not been licensed, he shall be guilty of a misdemeanor and shall be fined not less than twenty-five dollars.

1903, c. 516, s. 27.

remain as it is.

That section

2389. **Failure to stop and show oyster license.** If any person using a boat or vessel for the purpose of catching oysters shall refuse to stop and exhibit his license when commanded to do so by the Oyster Commissioner, Assistant Commissioner, or any inspector, he shall be guilty of a misdemeanor, and be fined not less than twenty-five dollars nor more than fifty dollars.

1903, c. 516, s. 26.

remain as it is.

That section

2390. **False statement in application for oysterman's license.** If any person shall make any false statement for the purpose of procuring any license which may be required by law to catch oysters, or to engage in the oyster industry, he shall be guilty of perjury and punished as provided by law.

1903, c. 516, s. 17.

remain as it is.

That section

2391. **Dredging in prohibited waters.** If any person, after the Governor has by proclamation suspended the right to use scoops, scrapes, or dredges on the public grounds or natural oyster-beds of the State, shall during the time of such suspension and in the waters as to which the right has been suspended, use such instruments or implements to catch oysters from any of the public grounds or natural oyster-beds of the State, he shall be guilty of a misdemeanor, and be fined not less than five hundred dollars or imprisoned not less than twelve months, and the boat or vessel used for this purpose shall be forfeited and shall be seized, advertised, and sold by the Oyster Commissioner or by the inspectors in the county wherein said illegal act was committed, and the proceeds paid into the oyster fund. In any prosecution for the violation of the provisions of this section against the master or owner of a boat or vessel, proof that said boat or vessel was equipped with scoop, scrape, or dredge or other implement or instrument for catching or taking oysters other than ordinary oyster tongs, shall be *prima facie* evidence of the defendant's guilt.

1903, c. 516, s. 19.

remain as it is.

That section

2392. **Selling oysters not culled.** If any person shall sell or offer for sale, transport or offer to transport out of the State, or from one point in the State to another, or have in his possession any oysters which have not been properly culled according to law, he shall be guilty of a misdemeanor, and be fined not exceeding fifty dollars or imprisoned not exceeding thirty days.

1903, c. 516, s. 3.

be repealed and the following substituted for it:

A captain of any run or buy boat who shall purchase oysters which have not been properly culled according to law shall, upon conviction, be fined fifty dollars or imprisoned thirty days, and the having of unculled oysters aboard his boat shall be *prima facie* evidence of his having purchased them.

It shall be unlawful for any person, firm, or corporation to purchase oysters which have not been properly culled according to law, and for each violation shall, upon conviction, be fined fifty dollars or imprisoned thirty days: *Provided*, that when any person, firm, or corporation shall furnish the captain of any run or buy boat with funds with which to purchase oysters, they shall not be held responsible for his acts and shall not be deemed the purchaser of such oysters.

That section

2393. **Oysters, where purchased to be carried out of the State.** If any person shall purchase and load on any vessel or boat any oysters to be carried out of the State in the shell, except at the following places, to-wit, the south end of Roanoke Island, Stumpy Point Bay, Parched Corn Bay, Wysocking Bay, West Bluff Bay, Great Island Narrows, or Swan Quarter Bay (as the Oyster Commissioner may determine), Portsmouth, Ocracoke, Bay River, mouth of Rose Bay, or Harbor Island; or if any person shall load more than one boat or vessel at any of said places at one and the same time, or if any person shall load any boat or vessel with oysters to be carried out of the State without such vessel having an inspector on board at the time the oysters are delivered, or shall carry any vessel loaded or partly loaded with oysters through the canals without a certificate showing that the oysters have been inspected and the taxes thereon paid, he shall be guilty of a misdemeanor, and be fined not more than fifty dollars or imprisoned not more than thirty days.

1903, c. 516, s. 17.

be repealed and the following substituted for it:

Any corporation domiciled in this State with their factories, shucking plants, and shipping depots located in this State, may enjoy the rights of fishing oysters from the natural reefs and of bedding oysters on leased bedding grounds: *Provided*, such oysters are canned,

shucked, or packed in this State, or shipped raw in shells from a shipping depot in this State for consumption either in or out of this State; but no person, firm, or corporation shall ship oysters out of this State for canning or packing out of this State. As it is the desire of the State to encourage the planting of shells on barren bottoms in this State, no oysters in shell shall be shipped out of this State without the shipper first obtains from the Shell-fish Commissioner of North Carolina permit so to do, and for which no charge shall be made by said Commissioner.

That section

2394. **Unloading oysters on Sunday or at night.** If any person shall unload any oysters from any boat, vessel, or car at any factory or house for shipping, shucking, or canning oysters on Sunday, or after sunset or before sunrise, he shall be guilty of a misdemeanor, and be fined not more than fifty dollars or imprisoned not more than thirty days: *Provided*, whenever any boat or vessel shall have partially unloaded or discharged its cargo before sunset, the remainder of said load or cargo may be discharged in the presence of an inspector.

1903, c. 516, s. 16.

remain as it is.

That section

2395. **Dealing in oysters without license.** If any person shall engage in the business of buying, canning, packing, shipping, or shucking oysters without having first obtained a license as required by law, he shall be guilty of a misdemeanor, and be fined not exceeding fifty dollars or imprisoned not exceeding thirty days.

1903, c. 516, s. 9.

remain as it is.

That section

2396. **Dealer failing to keep record.** If any person engaged in buying, packing, canning, shucking, or shipping oysters shall fail to keep a permanent record of all oysters bought by him or caught by him, or by persons for him, when and from whom bought, the number of bushels and the price paid therefor, or shall fail upon demand to exhibit such record as required by law, or shall fail to verify the same, he shall be guilty of a misdemeanor, and be fined not exceeding fifty dollars or imprisoned not exceeding thirty days.

1903, c. 516, s. 5.

remain as it is.

That section

2397. **Evidence of illegal dredging.** If any boat or vessel shall be seen sailing on any of the waters of this State during the season when the dredging of oysters is prohibited by law in the same manner in which they sail to take or catch oysters with scoops, scrapes, or dredges, the said boat or vessel shall be pursued by any officer authorized to make arrests, and if said boat or vessel apprehended by said officer shall be found to have on board any wet oysters or the scoops, scrapes, dredges, or lines, or deck wet, indicating the taking or catching of oysters at said time, and properly equipped for catching or taking oysters with scoops, scrapes, or dredges, such facts shall be *prima facie* evidence that said boat or vessel has been used in violation of the provisions of the law prohibiting the taking or catching of oysters with scoops, scrapes, or dredges in prohibited territory, or at a season when the taking or catching of oysters with scoops, scrapes, or dredges is prohibited by law, as the case may be.

1903, c. 516, s. 28.

be amended so that the following is added to this law:

Any one violating this act shall be guilty of a misdemeanor, and fined not less than fifty dollars or imprisoned not less than thirty days.

That section

2398. **Arrests without warrant, when and how made.** The Oyster Commissioner, Assistant Oyster Commissioner, and inspectors shall have power with or without warrant to arrest any person violating any of the oyster laws.

1903, c. 516, s. 2.

remain as it is.

That section

2399. **Using illegal measures for oysters.** If any person shall in buying or selling oysters use any measure other than that prescribed by law for the measurement of oysters, or if any dealer in oysters shall have in his possession any measure for measuring oysters other than that prescribed by law, he shall be guilty of a misdemeanor, and be fined not exceeding fifty dollars or imprisoned not exceeding thirty days.

1903, c. 516, s. 12.

remain as it is.

That section

2400. **Catching oysters for lime.** If any person shall take or catch any live oysters to be burned for lime or for any agricultural or mechanical purpose, he shall be guilty of a misdemeanor, and be fined not exceeding fifty dollars or imprisoned not exceeding thirty days.

Code, s. 3389; 1885, c. 182.

remain as it is.

That sections

2401. **Larceny of oysters on private beds.** Any person who shall feloniously take, catch, or capture or carry away any shell-fish from the bed or ground of another, shall be guilty of larceny and punished accordingly.

1887, c. 119, s. 15.

and

2402. **Oysters caught at night; injury to private beds.** If any person shall wilfully commit any trespass or injury with any instrument or implement upon any ground upon which shell-fish are being raised or cultivated, or shall remove, destroy, or deface any mark or monument lawfully set up for the purpose of marking any grounds, or who shall work on any oyster-ground at night, he shall be guilty of a misdemeanor. But nothing in the provisions of this section shall be construed as authorizing interference with the capture of migratory fishes or free navigation or the right to use on any private grounds any method or implement for the taking, growing, or cultivation of shell-fish.

1887, c. 119, s. 11.

be repealed and the following substituted for them:

Section ....Any person who shall wilfully and without authority take or remove oysters from any land leased under the laws of the State of North Carolina, or shall wilfully injure or interfere with the oysters of such land in any manner, or injure oysters thereupon situated, or wilfully remove, alter, or interfere with the stakes, buoys, or monuments marking the same, shall, upon conviction thereof, for the first offense be sentenced to imprisonment in jail or in the penitentiary, in the discretion of the Court, for not less than three months and not more than two years, and for the second or any subsequent offense be sentenced to imprisonment in the penitentiary for not less than two years and not more than five years.

Section .... Any person who shall work a dredge, scrape, or pair of tongs or any other implement for the taking of oysters upon any land leased under the provisions of this act, without the consent of the lessee or owner, or who shall, while upon or sailing over any such ground or bed, cast, haul, or have overboard any such dredge, scrape, or pair of tongs or other implement for the taking of oysters under any pretense or for any purpose whatever, without the consent of such lessee or owner, upon conviction thereof shall for the first offense be fined not less than fifty dollars nor more than two hundred and fifty dollars or, in the discretion of the Court, be imprisoned in the jail

or the penitentiary for not less than three months nor more than one year, or shall be both so fined and imprisoned; and for the second or any subsequent offense shall be sentenced to imprisonment in the penitentiary for not less than two years nor more than five years.

That sections

2403. Commissioner and assistant, how appointed, removed; term; salary; bond; oath of office. For the purpose of enforcing the oyster law, the Governor shall appoint an Oyster Commissioner and an Assistant Oyster Commissioner, whose term of office shall be two years, or until their successors are appointed and qualified. They may be removed by the Governor at any time for cause. The Commissioner shall give bond in the sum of two thousand dollars; the Assistant Commissioner shall give bond in the sum of one thousand dollars. The bonds shall be payable to the State of North Carolina, shall be conditioned for the faithful discharge of their office and the proper accounting for all moneys received, shall have at least two sufficient sureties, and shall be approved by and filed with the Clerk of the Superior Court of the county in which the officer resides and be a part of the records of his office. They shall take and subscribe oaths to support the Constitution and for the faithful performance of the duties of their office, which oaths shall be filed with the bond. The salary of the Commissioner shall be nine hundred dollars per annum, and he shall be allowed three hundred dollars for expenses. The salary of the Assistant Commissioner shall be seven hundred and fifty dollars per annum. The salaries shall be payable monthly.

1903, c. 516.

2404. Inspectors, how appointed; term; salary; bond; oath of office. The Oyster Commissioner shall appoint, from the counties within which they are to perform their duties, a sufficient number of inspectors who shall serve during the oyster season, and may remove them for cause. He shall fix the compensation of the inspectors at not exceeding fifty dollars a month while on duty, and shall designate the length of service, the time when the inspectors go on duty and when they go off. The inspectors shall give bond in the sum of five hundred dollars, payable to the State of North Carolina, conditioned for the performance of the duties of their office and the faithful accounting for all moneys received, which bond shall have at least two sufficient sureties, to be justified before, approved by, and filed with the Clerk of the Superior Court of the county where they reside, and shall take, subscribe, and file with such Clerk an oath of office. They shall be paid only for the time they serve.

1903, c. 516.

2405. Duties of the Oyster Commissioner. The Oyster Commissioner shall have a general supervision over every branch of the oyster industry, and see that the laws regulating the same are rigidly enforced. He shall furnish the inspectors and the Clerks of the Superior Courts of the several counties mentioned in this subchapter such receipt and record books and other kinds of stationery as may be necessary to keep a correct record and account of all the money collected and all information necessary to be kept. Such stationery shall be furnished by the Commissioner of Labor and Printing upon requisition of the Oyster Commissioner.

He shall see that the law regulating the catching and handling of oysters is enforced; that no illegal methods are used in catching, selling, or shipping; that the cull law is rigidly enforced, and that only proper and legal measures are used in buying and selling. He shall prosecute all violations of the law, and whenever it is necessary he may employ counsel for this purpose. He may also employ or charter sail vessels, tugs, and other boats when necessary to the performance of the duties of his office. He shall in his official capacity have power to administer oaths and to send for and examine persons and papers. He shall, on or before the twenty-fifth day of each month, mail to the Treasurer of the State a consolidated statement showing the amount of taxes collected during the preceding month and by and from whom collected. He shall make a biennial report to the Governor, setting forth in detail an account of his official acts, the condition of the oyster industry in all its branches, and shall recommend such additions to or modifications of existing laws relating thereto as he may deem proper and necessary. He shall have power and authority and it shall be his duty to make and prescribe all such reasonable rules and regulations as may be necessary and to carry into effect and operation the laws relative to the oyster industry according to its true intent and purposes.

1903, c. 516, ss. 3, 18.

2406. **Duties of the Assistant Commissioner.** The Assistant Oyster Commissioner shall be charged with the special supervision, under the Commissioner, of all matters relating to oyster industry in the different counties. He is particularly charged with the rigid enforcement of the cull feature of the law, the provisions against the use of illegal measures in buying or selling, and the unlawful use of scoops, scrapes, and dredges in the bays, creeks, straits, sounds, rivers, and their tributaries, and elsewhere where the same is prohibited.

1903, c. 516, s. 3.

and

2407. **Duties of inspectors.** The inspectors shall, under the Commissioner and Assistant Commissioner, be charged with all matters relating to the oyster industry in their respective counties; they shall inspect all oysters offered for sale in their county, see that they are properly culled, see that none of the provisions of the law regulating the oyster industry are violated, collect all taxes from dealers on oysters purchased or caught, keep a correct record of all taxes collected by them and from whom and for what purpose collected, and on or before the fifth day of each month mail to the Oyster Commissioner a report, on such form as he may prescribe, showing all taxes collected by them and from whom received, and at the same time pay over to the Commissioner the amount of such taxes.

1903, c. 516, s. 3.

be repealed by the Legislature, provided the organization of the Shellfish Commission as outlined above is passed.

That section

2408. **Who may be licensed to catch oysters.** No person shall be licensed to catch oysters from the public grounds of the State who is owner, lessee, master, captain, mate, or foreman, or who owns an interest in or who is an

agent for any boat that is used or that may be used in dredging oysters from the public grounds of the State, who is not a *bona fide* resident of this State and who has not continuously resided therein for two years next preceding the date of his application for license; and no non-resident shall be employed as a laborer on any boat licensed to dredge oysters under this subchapter who has an interest in or who receives any profit from the oysters caught by any boat permitted to dredge oysters on the public grounds of the State. Any person, firm, or corporation employing any non-resident laborer forbidden by this section, upon conviction shall be fined not less than fifty dollars nor more than five hundred dollars.

1903, c. 516, s. 6; 1905, c. 525, s. 3.

remain as it is.

That section

" 2409. **How license obtained to catch oysters; who may issue; form of.** Any person desiring to catch oysters from the public grounds and natural oyster-beds shall make and subscribe to the following oath, before some officer qualified to administer oaths:

I,..... (state if owner, lessee, master, captain, mate, foreman, or agent of any boat used or that may be used in dredging oysters from the public grounds of the State), being an applicant for oyster license, do solemnly swear that I am a citizen of North Carolina and have been a resident of the State for the two years next preceding this day; that my place of residence is now in..... county; that I will not, if granted license, employ any non-resident or unlicensed person as an assistant or serve as an assistant to any non-resident who is owner, lessee, master, captain, mate, or foreman, or who has any interest in, or in the profits derived from, any boat that is used or that may be used in dredging oysters from the public grounds of the State, or unlicensed person, nor will I transfer, assign, or otherwise dispose of my license to any person, firm, or corporation; that I will not knowingly or wilfully violate or evade any of the laws or regulations of the State relating to oyster industry: so help me, God.

He shall then present to and file said oath with the Oyster Commissioner, Assistant Oyster Commissioner, or inspector, who, if satisfied with the truth of the statement made in the oath of application, shall issue to him an oysterman's license in the following form:

State of North Carolina, ...County.

....., a resident of ..... county, having this day made application to me for an oysterman's license, and having filed with me the oath prescribed by law, I do hereby grant to him license to catch oysters from the public grounds of this State from the fifteenth day of October, ..., until the first day of next April. Witness my hand and official seal, this the ..... day of ..... 19...

....

Oyster Commissioner, Assistant Oyster Commissioner, or inspector (as the case may be).

The said oath and a record of the license shall be kept by the Oyster Commissioner, Assistant Commissioner, or inspector, and for issuing and recording the same he shall receive from the applicant a fee of twenty-five cents, which, together with all other license fees collected under this chapter, shall be paid over to the State Treasurer and constitute part of the oyster fund. No fee shall be charged by the Clerk for administering the oath.

1903, c. 516, s. 7; 1905, c. 525, ss. 4, 6.

NOTE.—For making false affidavit, see Crimes.

be amended so that "a fee of twenty-five cents" shall read "a fee of one dollar."

That section

2410. **License for boat used in catching oysters.** The Oyster Commissioner, Assistant Oyster Commissioner, or inspector may grant license for a boat to be used in catching oysters, upon application made according to law, and the payment of a license tax as follows: On any boat or vessel without cabin or deck, and under custom-house tonnage, using scoops, scrapes, or dredges, measuring, over all, twenty-five feet and under thirty, a tax of three dollars; fifteen feet and under twenty feet, a tax of two dollars; on any boat or vessel with cabin or deck and under custom-house tonnage, using scrapes or dredges, measuring, over all, thirty feet or under, a tax of five dollars; over thirty feet, a tax of six dollars; on any boat or vessel using scoops, scrapes, or dredges, required to be registered or enrolled in the custom-house, a tax of one dollar and fifty cents a ton on gross tonnage. No vessel propelled by steam, gas, or electricity, and no boat or vessel not the property absolutely of a citizen or citizens of this State on the first day of January, one thousand nine hundred and three, or unless built or owned in this State subsequent thereto and actually owned by a *bona fide* resident of this State under this chapter, shall receive license or be permitted in any manner to engage in the catching of oysters anywhere in the waters of this State. All boats or vessels so licensed to scoop, scrape, or dredge oysters shall display on the port side of the jib, above the reef and bonnet and on the opposite side of mainsail, above all reef points, in black letters not less than twenty inches long, the initial letter of the county granting the license and the number of said license, the number to be painted on canvas and furnished by the Oyster Commissioner, Assistant Oyster Commissioner, or inspector issuing the license, for which he shall receive the sum of fifty cents. Any boat or vessel used in catching oysters without having complied with the provisions of this section may be seized, forfeited, advertised for twenty days at three public places in the county where seized, and sold at some public place designated in the advertisement, and the proceeds paid into the oyster fund.

1903, c. 516, s. 8.

remain as it is.

That section

2411. **License to oyster dealers.** The Oyster Commissioner, Assistant Oyster Commissioner, or inspector, shall, upon application and the payment of a fee of fifty cents, grant to the applicant a dealer's license, authorizing the applicant to engage in the business of buying, purchasing, canning, packing, shucking, or shipping oysters. Such license shall not be issued prior to the fifteenth day of October of any year and shall expire on the first day of April following. The Assistant Oyster Commissioner or inspector granting the license shall at once mail a duplicate to the Oyster Commissioner.

1903, c. 516, s. 9; 1905, c. 525, s. 6.

remain as it is.

That section

2412. **Licenses reported monthly.** The Oyster Commissioner, Assistant Oyster Commissioner, or inspector, who are authorized to issue license or to collect a license tax, shall, on or before the fifteenth day of each month, mail

to the Oyster Commissioner a statement showing all licenses issued during the preceding month, to whom issued, and for what purpose, and the amount of tax collected by them from all sources under the oyster laws, and shall at the same time remit said amount direct to the State Treasurer. They shall at the same time mail to each inspector asking for the same a list of all persons to whom license has been issued and of all boats or vessels licensed, and for what purpose.

1903, c. 516, s. 4; 1905, c. 525, s. 6.

remain as it is.

That section

2413. Dredging, when allowed; prohibited territory. Any *bona fide* resident of the State duly licensed according to law and using a licensed boat or vessel may use scoops, scrapes, or dredges in catching or taking oysters from the fifteenth day of November in each year to the first day of April following, from the public grounds and natural oyster beds in the broad open waters of Pamlico Sound, Pamlico River, Neuse River, and Long Shoal River, except in those portions of said sound and rivers in which the use of such instruments and implements is prohibited as herein provided. No person shall use any implement or instrument except hand-tongs in catching oysters in any bay, river, creek, strait, or any tributary of such which border upon or empty into Pamlico Sound, Pamlico River, or Long Shoal River, except as hereinafter provided; and any point inside of a line drawn from the farthest or extreme outward point of land or marsh on the one side to the farthest or extreme outward point of land or marsh on the opposite side of any creek, strait, or bay, shall be construed to be within the said creek, strait, or bay for the purposes of this section. Nor shall any person use any implement or instrument except hand-tongs in the waters of Pamlico Sound from what is known as the Reef or Reefs in the eastern portion of said sound to the line of banks bordering its eastern shores; nor along the shores of Pamlico County inside of a line beginning at Maw Point and running to the west end of Brant Island, thence to Pamlico Point; nor in the waters of Pamlico Sound north of a line running from Long Shoal light to Gull Shoal life-saving station, from the first day of February of each year to the fifteenth day of November, nor in any of the waters of Carteret County. And for the purpose of this section, the northern boundary of said county shall be a line extending from Swan Point to Harbor Island light, thence a line to Southwest Straddle light, thence a line to Northwest Point light, thence a line to the middle of Ocracoke Inlet; nor in the waters of Neuse River above a line in said river running from Carbacon buoy to the western point of land at Pierce's Creek.

1903, c. 516, ss. 13, 14, 15; 1905, c. 507, s. 2.

remain as it is.

That section

2414. Governor may suspend right to dredge. The Governor, upon the request of the Oyster Commissioner, may, whenever in his judgment it is necessary, by proclamation, suspend entirely the use of all scoops, scrapes, or dredges in any of the waters of the State, either for a definite period of time or until the sitting of the next General Assembly.

1903, c. 516, s. 19.

remain as it is.

That section

2415. **Oysters culled on grounds.** All oysters taken from the public grounds of this State, with whatsoever instrument or implement, shall be culled, and all oysters whose shells measure less than two and one-half inches from hinge to mouth, except such as are attached to a large oyster and cannot be removed without destroying the small oyster, and all shells taken with the said oysters shall be returned to the public ground when and where taken, and no oysters shall be allowed by the inspectors to be marketed which shall consist of more than ten per cent. of such small oysters and shells, except "coon" oysters and oysters largely covered with mussels: *Provided*, these musseled oysters must not contain more than five per cent. of shells or small oysters under regulation size.

1903, c. 516, s. 11; 1905, c. 525.

be amended so that in the third and fourth lines "two and one-half inches from hinge to mouth" shall read "three inches in longest diameter."

That section

2416. **Oysters not culled seized and put on public grounds.** Whenever oysters are offered for sale or loaded upon any vessel, car, or train, without having been properly culled according to law, the Commissioner, Assistant Commissioner, or inspector shall seize the boat, vessel, car, or train containing the same and shall cause the said oysters to be scattered upon the public grounds, and the costs and expenses of said seizure and transportation shall be a prior lien to all liens on said boat, vessel, car, or train, and if not paid on demand the officers making the seizure shall, after advertisement for twenty days, sell the same and make title to the purchaser, and after paying expenses as aforesaid pay the balance, if any, into the oyster fund.

1903, c. 516, s. 3.

NOTE.—For selling unculled oysters, see s. 2392.

be repealed, as amended Section 2393 includes this.

That section

2417. **Dimensions of oyster measure.** All oysters measured in the shell shall be measured in a circular tub with straight sides and straight solid bottom, with holes in the bottom not more than one-half inch in diameter. The said measure shall have the following dimensions: A bushel tub shall measure eighteen inches from inside to inside across the top, sixteen inches from inside to inside chimb to the bottom, and twenty-one inches diagonal from inside chimb to top. All measures used for buying or selling oysters shall have a brand, to be adopted by the Oyster Commissioner, stamped therein by said Commissioner, Assistant Commissioner, or his lawful inspectors. All measures found in the

possession of any dealer not meeting the requirements of this section shall be destroyed by said Oyster Commissioner, Assistant Commissioner, or inspector.

1903, c. 516, s. 12.

be amended by inserting in fourth line, after "half inch in diameter," the words "or provided with opening one-half inch in width from bottom chimb around bottom of tub."

That section

2418. **Dealers to keep records.** All persons engaged in buying, packing, canning, shucking, or shipping oysters shall keep a permanent record of all oysters either bought or caught by them, or by persons for them, when and from whom bought, the number of bushels and the price paid therefor. All these records shall at all times be open to the examination and inspection of the Oyster Commissioner, Assistant Oyster Commissioner, and inspector, and upon request shall be verified by the parties making them.

1903, c. 516, s. 5.

remain as it is.

That section

2419. **Purchase tax.** All dealers in oysters and all persons who purchase oysters for canning, packing, shucking, or shipping shall pay a tax of one and one-half cents on every bushel of oysters purchased by them, or caught by them, or any one for them: *Provided*, that "coon" oysters shall be taxed one-half a cent a bushel only; and no oysters shall be twice taxed. This tax shall be paid to and collected by the inspectors, and when paid a receipt shall be given therefor. Upon failure or refusal by any person, firm, or corporation to pay said tax, his license as a dealer shall at once become null and void, and no further license shall be granted him during the current year, and it shall be the duty of the Commissioner, Assistant Commissioner, or inspector to institute suit for the collection of said tax. Such suit shall be in the name of the State of North Carolina on relation of the Commissioner or of the inspector at whose instance such suit is instituted, and the recovery shall be for the benefit and to the use of the general oyster fund.

1903, c. 516, s. 10; 1905, c. 507.

remain as it is.

That section

2420. **Vessels with oysters, when allowed to go through canals.** No boat or vessel loaded with oysters shall be permitted by the inspectors of South Mills and Coinjock to pass through the canals, which do not have a certificate showing that the cargo has been inspected and the tax paid thereon.

1903, c. 516, s. 17.

be amended so as to read:

No boat or vessel loaded with shell-oysters, except those in barrels, shall be permitted by the inspectors of South Mills and Coinjock to pass through the canals.

That section

2421. **Shells scattered on oyster beds,** The Oyster Commissioner is hereby empowered to expend one-half of the balance to the credit of the oyster fund on the fifteenth day of April in each year for the purpose of buying oyster shells and scattering the same on the natural oyster grounds of the State during the months of April and May.

1903, c. 516, s. 20.

remain as it is.

That section

2422. **Oyster funds kept separate, how paid out.** The Treasurer of the State shall keep all funds derived from the oyster industry separate and apart from other funds in the treasury and shall pay the same out only upon the warrant of the Auditor, and the Auditor shall issue no warrant on said fund in payment of any claim unless the same shall have been first approved by the Oyster Commissioner.

1903, c. 516, s. 20.

be repealed if the new legislation regarding the Shell-fish Commission is passed.

That section

2426. **Catching oysters in Myrtle Grove Sound.** If any person shall take or catch any oysters from Myrtle Grove Sound, from Perrines or Whitaker's Creek to the headwaters of said sound in New Hanover County, from the first day of May until the first day of September, except for his own consumption, he shall be guilty of a misdemeanor, and fined not more than fifty dollars or imprisoned not more than twenty days.

Code, s. 3423; 1883, c. 358, ss. 1, 2.

be repealed.

CLAMS.

That section

2423. **Clams.** If any person between the first day of April and the first day of November of any year shall take any clams from the waters of Brunswick, New Hanover, or Pender counties for the purpose of shipping, selling, marketing, or for bedding or pounding the same in any artificial bed, or if any person shall take or catch any oysters in the waters of Carteret County by dredging or scoops, or in any manner other than with the ordinary clam rake, or tongs, or if any non-resident shall take or catch any clams, he shall be guilty of a misdemeanor.

1901, c. 113; 1897, c. 333; 1899, c. 579; 1903, cc. 131, 414, 658, 732.

be amended by substituting in the fifth line and all that comes after from "or for bedding * * * of a misdemeanor," the following: "or if any person between the fifteenth day of May and first day of October of any year shall take any clams from the waters of Carteret

County for the purpose of shipping, selling, marketing, or pounding, provided this shall be permitted for the purpose of bedding the same, either on a natural or cultivated bed within the jurisdiction of North Carolina: *Provided,* that in Newport River no clams whatsoever shall be taken from May fifteenth to October first; and, *Provided, also,* that no clams whatsoever are to be taken, shipped, sold, or marketed during the month of August; shall be guilty of a misdemeanor and be fined fifty dollars or imprisoned thirty days in jail.

CULTIVATION OF THE OYSTER AND CLAM.

The following legislation is recommended by the committee as being the most practicable for encouraging and stimulating oyster and clam culture in North Carolina:

Section .... Shell-fish Commissioner can lease bottoms. The Shell-fish Commissioner shall have power to lease to any duly qualified person, firm, or corporation, for purposes of oyster or clam culture, any bottom of the waters of the State not a natural oyster-bed as defined in this act, nor a clam reservation as defined in this act, in accordance with the provisions of this law.

Section .... Leasing of bottoms. Any citizen of North Carolina or firm or corporation organized under the laws of the State and doing business within its limits shall be granted the privilege of taking up bottoms for purposes of oyster or clam culture under the provisions of this act of an area not less than one acre nor more than fifty acres, with the exception of the open waters of Pamlico Sound (and for the purposes of this act open waters of Pamlico Sound shall mean the waters that are outside of two miles of the shore line), in which the minimum limit shall be five acres and the maximum shall be two hundred acres: *Provided,* that the limit of entry in Core Sound, North River, Newport River, Bogue Sound, and all bays and creeks bordering on these waters, and in Jones Bay, Rose Bay, Abels Bay, Swan Quarter Bay, Middle Bay, Bay River, Deep Bay, Juniper Bay, West and East Bluff Bays, Wysocking Bay, Fire Creek, Stumpy Point Bay, Mouse Harbor Bay, Maw Bay, and Broad Creek tributaries of Pamlico Sound, shall be one acre as a minimum and ten acres as a maximum: *Provided further,* however, that at the end of one year from the passage of this act that the minimum area in Core Sound, North River, Newport River, Bogue Sound, and all bays and creeks bordering on these waters, and in Jones Bay, Rose

Bay, Abels Bay, Swan Quarter Bay, Middle Bay, Bay River, Deep Bay, Juniper Bay, West and East Bluff Bays, Wysocking Bay, Fire Creek, Stumpy Point, Mouse Harbor Bay, and Maw Bay, and Broad Creek tributaries of Pamlico Sound, shall be one acre and the maximum fifty acres; but no person, firm, corporation, or association shall severally or collectively hold any interest in any lease or leases aggregating an area of greater than fifty acres, except in the open waters of Pamlico Sound, where the aggregate area shall be two hundred acres.

Section .... Lease, how obtained. Such persons, firms, or corporations desiring to avail themselves of the privileges of this act shall make written application on a form to be prepared by the Shell-fish Commissioner, setting forth the name and address of the applicant, describing as definitely as may be the location and extent of the bottom for which application is made, and requesting the survey and leasing to the applicant of said bottom. As soon as possible after the application is received the Shell-fish Commissioner shall cause to be made a survey and map of said bottom at the expense of the applicant. The Shell-fish Commissioner shall also thoroughly examine said bottoms by sounding and by dragging thereover a chain to detect the presence of natural oysters. Should any natural oysters be found, the Commissioner shall cause examination to be made to ascertain the area and density of oysters on said bottom or bed to determine whether the same is a natural bed under the definition contained in this act. He shall be assisted in this examination on tonging ground by an expert tonger to be appointed by the Board of County Commissioners of the county in which said bottom or the greater portion thereof is located, and the question as to whether the oyster growth is sufficiently dense to fall within the definition of the natural bed shall be determined by the quantity of oysters which the said expert tonger may be able to take in a specified time; and on dredging-ground the Commissioner shall be assisted by an expert dredger, appointed by the Board of County Commissioners of the county in which said bottom or the greater portion thereof is located, and the question as to whether the oyster growth is sufficiently dense to fall within the definition of the natural bed shall be determined by the quantity of oysters which the said expert dredger may be able to take in a specified time. The Shell-fish Commissioner shall require the bodies of bottoms applied for to be as compact as possible, taking into consideration the shape of the body of water and the

consistency of the bottom. No application shall be entertained nor lease granted for a piece of bottom within two hundred yards of a known natural bottom, bed, or reef. A deposit of ten dollars will be required of each applicant at the time of making his application, said sum to be credited to the cost of the survey of the bottom applied for.

Section .... **Marking and staking of leased bottoms.** Immediately upon the completion of the survey and the mapping thereof and the payment by the applicant of the cost of said survey and map, the Shell-fish Commissioner shall execute to the applicant, upon a form approved by the Attorney-General of the State, a lease for the bottoms applied for. A copy of the lease, map of the survey, and a description of the bottom, defining its position, shall be filed in the office of the Shell-fish Commissioner. After the execution of said lease, the lessee shall have the sole right and use of said bottoms, and all shells, oysters, and cultch thereon, or placed thereon, shall be his exclusive property so long as he complies with the provisions of this law. The lessee shall stake off and mark the bottoms leased in the manner prescribed by the Shell-fish Commissioner, and failure to do so within a period of thirty days of an order so to do issued by the Commissioner shall subject said lessee to a fine of five dollars per acre for each sixty days' default in compliance with said order. The corner stakes, at least, of each lease shall be marked with signs plainly displaying the number of the lease and the name of the lessee. The lessee shall within two years of the commencement of his lease have planted upon his holdings a quantity of shells equal to an average of fifty bushels of seed oysters or shells per acre of holdings, and within four years from the commencement of his lease, a quantity of oysters or shells equal to an average of not less than one hundred and twenty-five bushels per acre. The Oyster Commissioner shall, upon granting any lease, publish a notice of the granting of same in a newspaper of general circulation in the county wherein the bottom leased is located.

Section .... **Term of lease, rental.** All leases made under the provisions of this act shall begin upon the issuance of the lease and shall expire on the first day of April of the twentieth year thereafter. The rental shall be at the rate of one dollar per acre per year for the first ten years and two dollars per acre per year for the next ten years of the lease, payable annually in advance on the first day of April of each year: *Provided*, that in the open waters of Pamlico Sound—

and for the purposes of this act the open waters of Pamlico Sound shall mean the waters that are outside the two miles of the shore line—the rental shall be at the rate of fifty cents per acre per year for the first three years; one dollar per acre per year for the next seven years; and two dollars per acre per year for the next ten years of the lease. This rental shall be in lieu of all other taxes and imposts whatever and shall be considered as all and the only taxation which can be imposed by the State, counties, municipalities, or other subordinate political bodies. The rental for the first year shall be paid in advance to an amount proportional to the unexpired part of the year to the first of April next succeeding.

Section .... **Transfer of lease, inheritance of lease.** The said lease shall be heritable and transferable, in whole or in part, provided the qualifications of the heirs and transferees are such as are described by this act. Non-residents acquiring by inheritance or process sale, or persons already holding the maximum area permitted by this act, shall within a period of twelve months from time of acquisition dispose of said prohibited or excess of holding to some qualified person, firm, or corporation, under penalty of forfeiture. The lease shall be subject to mortgage, pledge, seizure for debt, and the same other transactions as are other property rights in North Carolina. No transfer shall be of effect, unless of court record, until entered on the books of the Shell-fish Commissioner.

Section .... **Re-leasing of bottoms.** The term of each lease granted under the provision of this act shall be for a period of twenty years from the first day of April preceding the date of granting of said lease. At the expiration of the first lease the lessee, upon making written application on the prescribed form, shall be entitled to successive leases on the same terms as applied to the last ten years of the first lease, for a period not exceeding ten years each.

Section .... **Forfeiture of lease.** The failure to pay the rental of bottoms leased for each year in advance on or before the first day of April or within thirty days thereafter shall *ipso facto* cancel said lease and shall forfeit to the State the said leased bottoms and all oysters thereon, and upon said forfeiture the Shell-fish Commissioner is hereby authorized to lease the said bottoms to any qualified applicant therefor: *Provided*, that no forfeiture shall be valid, however, under the provisions of this section, unless there shall have been

mailed by the Shell-fish Commissioner to the last address of the lessee upon the books of the Commissioner a thirty days' notice of the maturity of said rental.

Section .... Title secure. If any person within four months of the publication of the notice of granting of any lease make claim that a natural oyster bottom, bed, or reef exists within the boundaries of said lease, he shall under oath state his claim and request the Shell-fish Commissioner to cancel said lease: *Provided, however,* that each such claim and petition shall be accompanied by a deposit of twenty-five dollars. No petition unaccompanied by said deposit shall be considered by the Commissioner. The Shell-fish Commissioner shall in person examine into said claim, and if the decision should be against the claimant, the deposit of twenty-five dollars shall be forfeited to the State and deposited to the credit of the Shell-fish Commission fund. Should, however, the claim be sustained and a natural bed be found within the boundary of the lease, the said natural bed shall be surveyed and marked with stakes or buoys at the expense of the lessee, and the said natural bed be thrown open to the public fishery. If no such claim be presented within a period of four months, or if when so presented it fail of substantiation as provided, the lessee shall thereafter be secure from attack on such account and his lease shall be incontestable so long as he complies with the other provisions of this act. In each and every such case the decision of the Shell-fish Commissioner shall be subject to review and appeal before a Judge of the Superior Court, who shall render a decision without the aid of a jury, and his decision shall be final.

GENERAL SHELL-FISH LAWS.

Section .... The State of North Carolina shall exercise exclusive jurisdiction and control over all the shell-fisheries of the State wherever located, whether these fisheries be for oysters, clams, scallops, or any other mollusca whatever.

Section .... All these acts relating to the fish, oyster, and clam are to be effective as soon as they have been ratified.

Section .... Delivery of oysters without inspection. If any boatman shall deliver oysters to any one before they have been inspected by the inspector, he shall be guilty of a misdemeanor, and fined not less than fifty dollars: *Provided*, that in case the boatman

is unable to find the inspector, he (the boatman) can deliver the oysters and report to the inspector afterwards, but within forty-eight hours of delivery of oysters.

If the act creating the Shell-fish Commission is passed by the Legislature, then all reference to Oyster Commissioner or Deputy Oyster Commissioner in any act shall be changed to read Shell-fish Commissioner and Deputy Shell-fish Commissioner respectively.

The above recommendations are respectfully submitted by the committee.

J. J. Laughinghouse,
M. B. Gowdy,
J. B. Coffield,
W. O. Lupton,
T. H. Shepard,
W. A. Saunders,
W. E. Swindell,
H. F. Moore,
W. M. Webb,
R. W. Smith, *Secretary.*
Joseph Hyde Pratt,
Chairman.

[LETTER OF ENDORSEMENT.]

Department of Commerce and Labor

BUREAU OF FISHERIES

Washington

October 27, 1906.

DR. JOSEPH HYDE PRATT,
Chairman Committee on Fisheries of North Carolina,
Chapel Hill, N. C.

SIR:

The preliminary draft of the report and recommendations of the committee appointed by the Governor of North Carolina to consider the legislative requirements of the oyster and fishery industries of that State has been received and examined at this office. The experience of this Bureau in its fish-cultural operations and in the numerous investigations of various character which it has conducted from time to time in the waters of North Carolina has impressed it with the imperative need of a thorough revision and enforcement of the laws relating to the fisheries in general, but especially those applying to shad and oysters. During the past ten years this Bureau has expended many thousands of dollars in the hatching of shad in the waters of North Carolina, and during that period has planted about two hundred million fry, most of which were derived from without the State, the local yield of eggs being insufficient for requirements. The magnitude of this work and its measure of success depend upon the number of ripe fish reaching the spawning-grounds during the season in which the physical conditions of the rivers are favorable to the maturation and development of the eggs. The spawning-grounds are all in the upper waters and the fish will not ripen in the saline water of the sounds. The fish caught on or near the natural spawning-grounds are in large part utilized in the fish-cultural operations of this Bureau, but those taken in the lower sounds are an absolute loss reproductively. It would be an injustice, however, to prohibit or unduly restrict the fisheries in the sounds, and such interference with a valuable and legitimate industry is entirely foreign and antagonistic to the purposes of this Bureau; but it is believed that the very existence of the shad fisheries in both the sounds and the rivers depends upon permitting a proper proportion of mature fish to ascend the streams. Under the regulations until recently in force this essential was impossible of realization. Not only has the amount of apparatus fished been in excess of that which the reproductive capacity of the several species would permit, but the nets have been set in such manner and in such places that access to the spawning-grounds was in large measure prevented, and the fish were either caught before they were ripe or were retarded and held in the sounds until the season had passed when the process of reproduction could be successfully performed. The Bureau observes with satisfaction that these matters were given careful consideration by the committee, and that especially in the proposed modification of the Vann law and the restriction of the open seasons to conform with local requirements an attempt was made to give access to the spawning-grounds to a larger proportion of the fish coming from the sea. The Bureau's representative on the committee has made certain verbal changes in the rough draft, which, it is believed, make clearer and more specific the intent of the board, and with these changes the

articles referred to are regarded with approval. Were there no established fisheries in the lower sounds, somewhat more rigorous restrictions might be advocated; but those persons already engaged in the industry are entitled to consideration and their interests should be protected so far as is compatible with the perpetuation of the fisheries. The amount of apparatus now in use should be regarded as the approximate maximum for some years to come, and any increase over that employed in the spring of 1906 should be regarded as inimical to the best interests of the State. The recommendations concerning the appointment of a Fish Commissioner, charged specifically with the execution of the fishery laws, are strictly in accord with previous recommendations of this Bureau. It is essential for the proper execution of the laws, the guidance of future legislation, and the investigation of the many problems relating to the fisheries, that there should be a definite organization for the purpose, and as divided or local jurisdiction over the fisheries has never been satisfactory, this organization should operate under the general authority of the State. Should the recommendations be enacted into law, it is believed that the State will soon feel the benefit.

No less important is the proposed reorganization of the Oyster Commission and its functions, and the new laws and amendments recommended meet with the hearty endorsement of this Bureau. The oyster industry of the State can never reach its legitimate development, except through the enactment and rigorous enforcement of laws protecting the public oyster-beds and establishing private oyster culture upon a secure foundation, the two purposes being in no manner antagonistic, but rather mutually dependent. The recommendations proposed by the Board appear to cover the requirements. The natural beds are protected on the one hand from injudicious and destructive methods of oystering, and on the other are preserved inviolate from private acquisition and maintained forever as a common possession for all citizens of the State who may comply with reasonable regulations. The provisions relating to oyster culture permit the leasing under reasonably generous conditions of otherwise unproductive and useless bottom, and they establish in a satisfactory manner the secure tenure of the leases so granted, while excluding private entry upon bottom which should of right be a common fishery. The matter of a secure tenure of the leaseholds is essential to the success of any attempt to inaugurate oyster culture in the State, and should be jealously safeguarded. The Bureau recommends the enactment of the oyster laws substantially as set forth in the report and believes that such action will result in material financial benefit to the State and its citizens.

While there are some minor features and inconsistencies in the recommendations, to which exception might be taken, especially in those relating to the fisheries proper, the Bureau strongly recommends the passage of laws in general conformance with the report. The committee represented many conflicting interests, all worthy of consideration, and its recommendations should be considered collectively rather than severally and as embodying those suggestions which if put in effect would do most good and least harm to the general interests of the State. Any material departure from the lines laid down by the committee may precipitate a conflict of interests which would destroy the harmonious understanding which the appointment of the board was designed to bring about.

It is apparent from the report that the committee did not consider it its function to go into the details of law-making, and in recommending new legislation and the retention, repeal, and modification of old laws, there are naturally some inconsistencies, duplications and contradictions. In the interests of clear-

ness and brevity, the Bureau trusts that the report will be placed in competent hands, that a general or codified law may be drawn covering the recommendations made and repealing such acts or parts of acts as may be in conflict therewith.

The Bureau will watch with interest the progress of this effort to provide more satisfactory fishery laws in North Carolina, and stands ready to co-operate in furtherance of the work of your committee.

Respectfully,

H. M. Smith,
Acting Commissioner.

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